

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
CIVIL ACTION NO. 83-2864 SA

ANTONIO CIPOLLONE, individually :  
And as Executor of the Estate of :  
ROSE D. CIPOLLONE, :

Plaintiff, :

Deposition of:

vs. :

SEYMOUR SUDMAN

LIGGETT GROUP, INC., a :  
Delaware corporation; PHILIP :  
MORRIS INCORPORATED, a Virginia :  
Corporation; LOEW'S THEATRES, :  
INC., a New York corporation, :

Defendants. :

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TRANSCRIPT of testimony as taken by and  
before MARGARET J. TEILHABER, a Certified  
Shorthand Reporter and Notary Public of the State  
of New Jersey, at the offices of WEBSTER &  
SHEFFIELD, 237 Park Avenue, New York, New York,  
on Tuesday, October 27, 1987.

A P P E A R A N C E S:

BUDD, LARNER, GROSS, PICILLO, ROSENBAUM,  
GREENBERG & SADE  
150 John F. Kennedy Parkway  
Short Hills, New Jersey 07078  
BY: MARC Z. EDELL, ESQ.,  
For the Plaintiff

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## 1. A P P E A R A N C E S: (Continued)

2 WEBSTER & SHEFFIELD  
3 237 Park Avenue  
4 New York, New York 10017  
5 BY: JAMES V. KEARNEY, ESQ.  
6 JAMES H. GIANNINOTO, ESQ.  
7 For Liggett Group, Inc.

8 SHOOK, HARDY & BACON  
9 20th Floor  
10 Mercantile Bank Tower  
11 1101 Walnut  
12 Kansas City, Missouri 64106  
13 BY: STEVEN C. FARRISH, ESQ.  
14 For Philip Morris, Inc. and Lorillard, Inc.

15 BROWN, CONNERY, KULP, WILLE,  
16 FURNELL & GREENE  
17 Parkade Building  
18 518 Market Street  
19 P.O. Box 1449  
20 Camden, New Jersey 08101  
21 BY: RAYMOND F. DROZDOWSKI, ESQ.  
22 For Philip Morris, Inc.

23 ARNOLD & PORTER  
24 1200 New Hampshire Avenue, N.W.  
25 Washington, D.C. 20036  
BY: PETER K. BLEAKLEY, ESQ.  
THOMAS E. SILFEN, ESQ.  
For Philip Morris, Inc.

STRYKER, TAMS & DILL  
33 Washington Street  
Newark, New Jersey 07102  
BY: EDGAR M. WHITING, ESQ.  
For Lorillard, Inc.

## ALSO PRESENT:

Michele Brown

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I N D E XWITNESSDIRECT

SEYMOUR SUDMAN

By Mr. Edell: 4

E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENTIFICATION</u>
Sudman-1	8-page document entitled Public Knowledge About the Health Hazards of Smoking	20
Sudman-2	Multi-page document entitled Number of Articles on Health Dangers of Cigarette 1948-1980	51
Sudman-3	27-page handwritten document with the question on first page, "Do think the chance of getting lung cancer are the same for people who don't smoke cigarettes as they are for people who do smoke cigarettes"	104
Sudman-4	8-page computer run, Gallup Poll, May 14-17, 1971	154
Sudman-5	14-page computer run, Gallup Poll, June 12-17, 1959	154
Sudman-6	13-page computer run, Gallup Poll, July 24-29, 1969	154

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1 S E Y M O U R S U D M A N ,

2 [DELETED]

3 sworn.

4 DIRECT EXAMINATION

5 BY MR. EDELL:

6 MR. EDELL: So we have it on the  
7 record, we had a conversation concerning the  
8 witness' response to the subpoena that was served  
9 on the defendants and accepted on behalf of the  
10 witness in this matter and could you just tell us  
11 whether or not we received all of the information  
12 that was responsive to that subpoena or if there  
13 were any materials held back because of  
14 objections.

15 MR. KEARNEY: No. You received all of  
16 the documents that were responsive to the subpoena  
17 except for correspondence between the lawyers and  
18 the witness which are, as I understand it, work  
19 product and have been claimed as such by you in  
20 the course of this case.

21 MR. EDELL: I had up until the point  
22 in time that the defendants refused to provide me  
23 with correspondence to and from their witnesses  
24 provided the defendants with such correspondence.  
25 It was only in response to the defendants'

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Sudman - direct

1 objection and failure to produce similar  
2 correspondence for their experts that I  
3 discontinued providing the defendants with  
4 correspondence to and from my experts.

5 MR. KEARNEY: I had a different  
6 understanding of it. All I understood is that we  
7 did not get that information from or in connection  
8 with the testimony of Jeffrey Harris and some of  
9 the others.

10 MR. EDELL: You did get all  
11 correspondence to and from Jeffrey Harris.

12 MR. KEARNEY: I have a recollection of  
13 some cases that were testified about that you sent  
14 him that we never got.

15 MR. EDELL: We assume that you had  
16 access to the -- I don't know whether it will  
17 serve any purpose. I'm sure Steve Parrish can  
18 clarify the history of this thing but that was the  
19 position and it's memorialized in some letters to  
20 the defendants but just for the purposes of the  
21 record, there are correspondence to and from this  
22 witness pertinent to this litigation that have not  
23 been produced based upon some objection. Is that  
24 correct?

25 MR. KEARNEY: There are documents that

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Sudman - direct

1 we understand have fallen under the category of  
2 attorney's work product as that category has been  
3 used as I understand it by the plaintiff and then  
4 in turn by the defendants in this case. Those  
5 documents were basically these transmittal letters  
6 and transmittal letters respecting bills and  
7 payments and I'll be glad to revisit that if you  
8 can show me in the record that those types of  
9 documents were produced for all of your witnesses  
10 and indeed all correspondence and notes of  
11 communications between you and your witnesses were  
12 produced to us because I don't believe that was  
13 the state of affairs.

14 MR. EDELL: As I indicated previously,  
15 we had up until the point in time that the  
16 defendants refused to produce such documents in  
17 response to subpoenas served upon their experts  
18 provided to the defendants correspondence for and  
19 from our experts. It was only when the defendants  
20 subsequently objected and refused to produce such  
21 documents that we similarly refused to produce  
22 them.

23 MR. KEARNEY: Whatever the record is  
24 on that matter, it is.

25 Q. Professor Sudman, my name is Marc

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Sudman - direct

1 Edell. We introduced ourselves before we started  
2 this proceeding. I represent the plaintiff in  
3 this case. You have testified before, sir?

4 A. Yes, I have.

5 Q. How many times have you testified  
6 either in an administrative proceeding, at trial  
7 or in deposition?

8 A. Several times. I don't have a count in my  
9 head right now.

10 Q. Let's go through those times that you  
11 can recall testifying either at an administrative  
12 hearing or deposition or trial.

13 A. Depositions and administrative hearings for  
14 the Federal Trade Commission, two separate times,  
15 hearings before the Florida and the Illinois  
16 Commerce Commissions, depositions in a trademark  
17 case, another one in a patent case and that's all  
18 I can remember at this time.

19 Q. The depositions and testimony at an  
20 administrative hearing on behalf of the Federal  
21 Trade Commission on two separate occasions, was  
22 that in regard to the same subject matter?

23 A. No. Those were two separate cases.

24 Q. What were the two separate cases?

25 A. One case dealt with Litton microwave ovens.

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Sudman - direct

1 That was a case of advertising for which there was  
2 not sufficient proof and the other was with  
3 Volkswagen of America where the FTC claimed that  
4 Volkswagen had deceived purchasers of their car in  
5 terms of the messages they sent them.

6 Q. You were kind enough to furnish to us  
7 within the last week transcripts of the Volkswagen  
8 matter. Do you have a transcript regarding the  
9 Litton microwave matter?

10 A. I looked for it and I cannot find it.  
11 Apparently I must have sent it back with  
12 corrections. I don't have it. Or it's not in my  
13 files. I looked fairly carefully.

14 Q. Can you just give us a little bit more  
15 detail as to the Litton microwave matter?

16 MR. KEARNEY: Objection to the form of  
17 the question. You can answer the question.

18 A. Where shall I start? I was a witness for  
19 the Federal Trade Commission in a case that they  
20 conducted against Litton. Litton had published  
21 ads which appeared in a wide range of the media  
22 and the ads said three-quarters of all microwave  
23 oven repairmen prefer Litton to all other brands  
24 and the Federal Trade Commission asked me to  
25 investigate the basis on which this ad had been

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Sudman - direct

1 published, that is, the data that Litton used, and  
2 then asked me to testify about that data.

3 Q. Did you perform any survey research or  
4 was it simply an examination of the information  
5 that Litton microwave had?

6 MR. KEARNEY: Objection to the form of  
7 the question.

8 THE WITNESS: Would you repeat the  
9 question.

10 (Question read.)

11 A. When you say did I perform any survey  
12 research, do you mean did I actually myself  
13 conduct interviews? Tell me what I'm supposed to  
14 take that to mean.

15 Q. Did you design a research survey  
16 plan? Did you interview respondents to a  
17 questionnaire? Did you devise a questionnaire?  
18 Did you supervise a survey research project in  
19 which interviewers were given questionnaires and  
20 instructions and sent out into the field to  
21 interview people? Did they do it by telephone?  
22 Did you do any of those things?

23 A. No.

24 Q. What type of survey research, if any,  
25 did you do with regard to the Litton microwave

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Sudman - direct

1 case?

2 A. Didn't I just say? I evaluated the research  
3 that they did.

4 Q. That was my first question.

5 MR. KEARNEY: Object to the form of  
6 the question, the form of the statement. There is  
7 no question.

8 Q. How did you evaluate this research,  
9 sir?

10 A. I examined the documents that Litton  
11 provided indicating how they had done the survey.

12 Q. What were those documents?

13 A. It has been a long time. As I recall, there  
14 was a copy of the questionnaire and a copy of an  
15 internal report that was prepared in which the  
16 results of the survey were given and there was  
17 some correspondence as well.

18 Q. Did you formulate any conclusions upon  
19 your examination of these materials?

20 A. Yes, I did.

21 Q. Can you tell us what those conclusions  
22 were?

23 A. I concluded that on the basis of the sample  
24 that Litton had chosen that their claims that  
25 three-quarters of all microwave service repairmen

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Sudman - direct

1 preferred Litton had no basis.

2 Q. What was it about the sample that led  
3 you to that conclusion?

4 A. Litton for reasons which were never made  
5 clear had chosen a sample not of all microwave  
6 service repairmen but of their own authorized --  
7 they had a small group from among all microwave  
8 service repairmen, a small group who were  
9 authorized by them to service Litton. It was  
10 evident that such a group might very well have  
11 ties towards Litton which would bias their results  
12 and they could not possibly represent the total  
13 number of microwave service repairmen who were  
14 approximately ten times as many as that and that  
15 was the basis of my testimony.

16 Q. Was your deposition taken in that  
17 matter or was it only testimony before an  
18 administrative hearing?

19 A. There was a deposition.

20 Q. Do you remember who took your  
21 deposition?

22 A. My memory says Mr. Adair but it has been  
23 quite awhile.

24 Q. Where was Mr. Adair from?

25 A. Washington. It was a Washington firm.

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Sudman - direct

1 Q. Do you know the name of the firm?

2 A. I don't recall at this time.

3 Q. Tell us about the testimony before the  
4 Florida Commerce Commission.

5 MR. KEARNEY: Object to the form of  
6 the question.

7 Q. What was that about, sir?

8 A. Are you asking me --

9 Q. There's no secret questions. I just  
10 want --

11 A. Are you asking me what I said or what the  
12 case was about?

13 Q. Basically what the case was about and  
14 what you said and we can get into greater detail.

15 MR. KEARNEY: I object to the form of  
16 the question. You can answer it.

17 A. This was a case relating to Southern Bell.  
18 Southern Bell was exploring the use of measured  
19 service in the Miami area. Measured service is a  
20 local telephone service where people do not pay a  
21 flat charge but pay a charge based on the number  
22 of calls they make, how many minutes they spend on  
23 the phone and how far the calls go from their  
24 home.

25 Q. What was your testimony in that

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Sudman - direct

1 matter?

2 A. A survey had been conducted and I was asked  
3 whether in my expert opinion that survey  
4 adequately represented the situation.

5 Q. Who conducted the survey that you  
6 examined and formulated certain opinions with  
7 respect to?

8 A. Richard Day & Associates.

9 Q. What was the nature of the survey?

10 A. It was a survey asking people about their  
11 telephone usage and about their attitudes towards  
12 local measured service.

13 Q. What were your conclusions?

14 A. As I can reconstruct them now, my  
15 conclusions were that the survey had been in  
16 general carefully conducted and that the results  
17 could be relied upon.

18 Q. Tell us about the Illinois Commerce  
19 Commission case.

20 MR. KEARNEY: Object to the form of  
21 the question.

22 Q. Please.

23 MR. KEARNEY: You can answer it.

24 A. This is a similar case in which Illinois  
25 Bell -- I'm sorry -- GTE is interested in local

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2017012944

Sudman - direct

1 measured service for certain communities in  
2 Illinois. Again a survey had been conducted and I  
3 was asked my opinions about that study.

4 Q. Have you ever conducted a survey with  
5 respect to consumer awareness about potential  
6 health hazards associated with the use of a  
7 product?

8 A. No, I haven't.

9 Q. Have you written any papers the  
10 subject of which was the construction and  
11 execution of survey research concerning public  
12 opinions with respect to health hazards associated  
13 with the use of products?

14 A. No, I haven't.

15 Q. Are you an expert in consumer  
16 behavior?

17 MR. KEARNEY: Objection to the form of  
18 the question. You can answer it.

19 A. Are you asking me whether -- I consider  
20 myself to have some knowledge of the field of  
21 consumer behavior. It is not my major area of  
22 expertise.

23 Q. Is there a recognized academic  
24 discipline of consumer behavior?

25 MR. KEARNEY: Objection to the form of

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Sudman - direct

1 the question.

2 A. You'll have to help me a little bit with  
3 this. Are you asking me are there departments of  
4 consumer behavior?

5 Q. I'll make it as easy as I can. Is  
6 survey research a recognized field of academic  
7 discipline?

8 A. I can't answer that question. If you tell  
9 me what you mean by a recognized field, if you say  
10 are there any courses --

11 Q. Are there professors who teach survey  
12 research?

13 A. Who are called professors of survey research  
14 or who teach?

15 Q. Who teach survey research.

16 A. Yes.

17 Q. Are there people who you consider  
18 scholars in the area of survey research?

19 A. Yes.

20 Q. Are there people who you consider to  
21 be scholars in the area of consumer behavior?

22 A. Yes.

23 Q. Are you a scholar in consumer  
24 behavior?

25 A. I'll leave that judgment to somebody else.

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2017012946

Sudman - direct

1 Q. Are you a scholar with respect to  
2 survey research?

3 A. I think I am.

4 Q. But you don't have an opinion with  
5 respect to whether you are a scholar or not in the  
6 area of consumer behavior?

7 MR. KEARNEY: Objection to the form of  
8 the question.

9 Q. Is that correct, sir?

10 A. It is certainly an area of scholarly  
11 interest to me. Whether that makes me a scholar  
12 in it --

13 Q. You told us that you were a scholar in  
14 survey research. Using the same criteria, do you  
15 consider yourself to be a scholar in consumer  
16 behavior?

17 A. I'm not sure.

18 Q. What criteria in your opinion is  
19 necessary before you consider someone to be a  
20 scholar in consumer behavior?

21 A. I really haven't thought about this prior to  
22 your asking me this question. If you give me a  
23 moment, I'll think about it and give you an  
24 answer.

25 Q. Take your time.

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Sudman - direct

1 MR. KEARNEY: Take your time.

2 (Short pause.)

3 A. There are a variety of ways in which people  
4 can exhibit scholarship. One is in publications  
5 in professional journals. A second is in the  
6 training of graduate students in the area. A  
7 third would be in the reviewing and editing of  
8 other people's work. When I say editing, I mean  
9 basically the decision as to whether that work is  
10 of publishable quality. Those are the things that  
11 come to mind at this point.

12 Q. Are there professors in consumer  
13 behavior at the University of Illinois?

14 MR. KEARNEY: Objection to the form of  
15 the question.

16 A. We don't have anyone who is called a  
17 professor of consumer behavior.

18 Q. You are not called a professor of  
19 survey research?

20 A. That's right.

21 Q. You are called a professor of business  
22 administration and sociology and research.  
23 Correct?

24 A. Yes.

25 Q. Are there professors at the University

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Sudman - direct

1 of Illinois who teach consumer behavior?

2 A. Yes, there are.

3 Q. What are their titles?

4 A. They are in the Department of Business  
5 Administration. There are some people in the  
6 College of Communications, in the Department of  
7 Advertising.

8 Q. When was it that you were first  
9 retained by any attorneys in this matter?

10 A. In this case?

11 Q. In this case.

12 A. My memory tells me sometime in 1986.

13 Q. Had you been retained by any lawyers  
14 in this case to work on any other matter prior to  
15 that?

16 A. Yes, I had.

17 Q. By whom?

18 A. By the attorneys at Webster & Sheffield.

19 Q. To act as an expert in what case?

20 A. This was the Palmer case.

21 Q. When were you first retained to act as  
22 a expert in the Palmer case?

23 A. My memory tells me it was sometime in 1985.

24 Q. What work did you do in regard to the  
25 Palmer case?

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Sudman - direct

1 A. Basically I examined the status of public  
2 awareness and beliefs and behavior on the relation  
3 between cigarette smoking and lung cancer.

4 Q. How did you do that?

5 A. I used two methods. My primary method was  
6 to examine public opinion polls and surveys that  
7 had been conducted in the time period I was  
8 examining and I also looked at some media coverage  
9 of articles on the relation between cigarette  
10 smoking and health as an indirect method.

11 Q. What was the time period for which you  
12 examined the status of public awareness and  
13 beliefs and behavior with respect to cigarette  
14 smoking and lung cancer in the Palmer case?

15 A. My memory tells me again in 1954 and went  
16 into the 1980s.

17 Q. Did you prepare any written materials  
18 with respect to that examination?

19 A. Yes, I did.

20 Q. Where are those written materials?

21 A. I think you have been supplied them.

22 Q. Did you prepare a report with respect  
23 to your examination of the status of public  
24 awareness, beliefs and behaviors with respect to  
25 cigarette smoking and lung cancer in the Palmer

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Sudman - direct

1 case?

2 A. I prepared a draft.

3 Q. Is that this document over here?

4 A. Yes, it is.

5 MR. EDELL: Can we mark that, please.

6 (Sudman Exhibit 1 marked for

7 identification.)

8 Q. I show you what has been marked Sudman  
9 Exhibit 1 for identification, which is the  
10 document that you indicated was a draft report of  
11 the results of your work in the Palmer case.

12 MR. KEARNEY: I object to the form of  
13 the question. Or actually statement.

14 Q. Do you have it?

15 A. Yes, I have it. Is there a question? I'm  
16 sorry. I didn't hear the question.

17 Q. I just said I handed the document to  
18 you. Just so there's no problem here, why don't  
19 you tell us exactly what Sudman Exhibit 1 is.

20 A. The title on the document is public  
21 knowledge about the health hazards of smoking.  
22 It's a draft document that I prepared for possible  
23 use in the Palmer case..

24 Q. Use in regard to what, sir?

25 A. If I were asked to provide testimony, I

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Sudman - direct

1 would have used information contained in this  
2 document.

3 Q. When did you prepare that document,  
4 Sudman Exhibit 1?

5 A. I really can't remember. Sometime in 1985  
6 is right, I think.

7 Q. What public opinion surveys did you  
8 examine with respect to your work in the Palmer  
9 case?

10 A. Primarily the data I examined most carefully  
11 were the Gallup polls.

12 Q. What other public opinion surveys  
13 other than the Gallup polls did you review with  
14 respect to your work in the Palmer case?

15 A. I reviewed a series of local polls, the  
16 Minnesota and Iowa polls, but decided that since  
17 they were local and did not relate, I didn't see  
18 how they would relate to the Palmer case so I then  
19 did not pursue them.

20 Q. Was it your feeling that you could not  
21 extrapolate from those local polls through to the  
22 geographic area in which Mr. Palmer lived? Is that  
23 correct?

24 MR. KEARNEY: Objection to the form of  
25 the question.

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Sudman - direct

1 Q. Is that correct?

2 A. I wasn't sure whether there was any value.

3 It would be difficult to know how to use data from  
4 Minnesota and Iowa in a case that related to  
5 Massachusetts.

6 Q. Why would it be difficult, sir? Why  
7 would it be difficult to know how to use the data  
8 from surveys in Minnesota and Iowa in the Palmer  
9 case?

10 A. Well, in the absence of additional  
11 information, one would not know whether the data  
12 from Minnesota and Iowa reflected the views of  
13 everyone in the United States or only people in  
14 Minnesota and Iowa.

15 Q. What additional information would be  
16 necessary in order to ascertain whether or not the  
17 results of the polls in Minnesota and Iowa were  
18 reflective of opinions in the United States in  
19 general or simply those in the geographic area in  
20 which the surveys were conducted?

21 A. It's not obvious to me that there would be  
22 any additional information which would make data  
23 from Minnesota and Iowa represent the United  
24 States.

25 Q. Did you review any additional public

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Sudman - direct

1 opinion surveys other than the Gallup surveys, the  
2 local surveys in Minnesota and Iowa with respect  
3 to your work in the Palmer case?

4 A. I don't remember reviewing any additional  
5 surveys for the Palmer case.

6 Q. So the document Sudman Exhibit 1 was  
7 prepared at a time that you had only reviewed the  
8 public opinion survey polls conducted by the  
9 Gallup organization and the local surveys prepared  
10 with respect to Minnesota and Iowa. Is that  
11 correct, sir?

12 A. Yes, I believe that's correct.

13 Q. What other materials did you review  
14 with respect to your work in the Palmer case?

15 A. I also reviewed news stories that were found  
16 in the New York Times Index and in the Reader's  
17 Guide to Periodical Literature.

18 Q. Why was it that you used the index to  
19 news stories in the New York Times in the Palmer  
20 case?

21 A. That question has the -- the why can refer  
22 to many different things.

23 Q. I would like to know all of the things  
24 to which you think that "why" may refer.

25 A. First of all, the New York Times Index is

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2017012954

Sudman - direct

1 one that is readily available to me at the  
2 University of Illinois library. I've used it on  
3 several other occasions in trying to get  
4 information on what the media contain. I've  
5 tested it and found that one can rely on it. That  
6 is, when it reports something being found, it is  
7 found where it says it is. And it gave me the  
8 ability to look at news media coverage in the New  
9 York Times for a series of years since there is an  
10 annual index.

11 Q. Any other reasons why you used the  
12 index to the news stories for the New York Times  
13 in the Palmer case?

14 A. I consider that index as one measure of  
15 input into public opinion. That is, if indeed one  
16 raised questions about the polls and said how do  
17 we know that what the polls are reporting is  
18 accurate, the polls are an output measure. They  
19 measure public awareness and knowledge and input  
20 measures are useful to help collaborate the output  
21 measure.

22 The New York Times obviously is not the only  
23 source of information about what the media  
24 contained. It's the only source which at that  
25 point in time there was a convenient index for.

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2017012955

Sudman - direct

1 There were no indices for broadcast media or other  
2 newspapers that I was aware of so I used it as an  
3 indicator of what other print media might have  
4 said in terms of trends over time.

5 Q. What do you mean by trends over time?

6 A. That is the amount of coverage that was  
7 given to the relationship between cigarette  
8 smoking and health over time.

9 Q. You indicated in your prior response  
10 that polls measure awareness and knowledge. Is  
11 that correct?

12 MR. KEARNEY: Objection to the form of  
13 the question. You can answer the question.

14 A. I really don't remember what I said.

15 Q. Let me ask you whether or not in your  
16 opinion research polls measure awareness and  
17 knowledge.

18 A. And other things also. Yes, they measure  
19 those and they measure other things, too.

20 Q. In addition to awareness and  
21 knowledge, what else do public opinion polls  
22 reflect?

23 MR. KEARNEY: Objection to the form of  
24 the question. You can answer the question.

25 A. If we take in a sense the universe of all

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Sudman - direct

1 opinion polls, it is certainly possible that in  
2 addition to awareness and knowledge, opinion  
3 polls, some opinion polls measure behavior, some  
4 opinion polls measure attitudes. It is not the  
5 case necessarily that any single opinion poll  
6 would measure all of those things but the set of  
7 all opinion polls together shall measure those  
8 things and possibly other things as well.

9 Q. What other things as well?

10 A. Demographic characteristics. Other  
11 characteristics of a house, how many rooms it has  
12 and things of this sort. There may well be other  
13 things that don't come to me at this moment that  
14 have been measured in opinion polls.

15 Q. But a public opinion poll can be used  
16 to answer questions with respect to awareness,  
17 knowledge, behavior and attitudes. Is that  
18 correct?

19 MR. KEARNEY: Objection to the form of  
20 the question.

21 A. I thought I answered that question. Did I?

22 Q. This is another question.

23 A. Okay.

24 Q. Do you want it read back?

25 A. That is, the totality of all opinion polls.

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2017012957

Sudman - direct

1 can measure attitudes, knowledge, awareness,  
2 behavior but these may not be measured necessarily  
3 in any one poll.

4 Q. Can one devise an opinion survey to  
5 answer questions with respect to awareness,  
6 knowledge, behavior and attitude in one survey,  
7 sir?

8 MR. KEARNEY: Objection to the form of  
9 the question.

10 A. You've asked that a bit too abstractly for  
11 me to answer. About what? Anything?

12 Q. We can start with anything and then we  
13 can narrow our way down.

14 A. I think in the abstract I can't answer the  
15 question. If it gets narrower, I might be able to  
16 answer it.

17 Q. With respect to public opinion  
18 concerning health hazards, can one construct one  
19 opinion survey to answer questions with respect to  
20 awareness, knowledge, behavior and attitudes?

21 A. Health hazards? As it stands, it's still, I  
22 think, too general for me to say yes. I think one  
23 would have to be more specific about what one is  
24 talking about in terms of health hazards before I  
25 could answer whether it is or isn't possible.

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2017012958

Sudman - direct

1 That is, it is possible, I suppose, to imagine  
2 questions that could not be answered by a public  
3 opinion poll.

4 Q. Let's say I wanted to find out what  
5 the public was aware of, their knowledge and their  
6 behavior and attitude with respect to arsenic and  
7 any health hazards associated with the use of  
8 arsenic. Could you devise one poll that would  
9 answer the questions of awareness, knowledge,  
10 behavior and attitude?

11 MR. KEARNEY: Objection to the form of  
12 the question.

13 A. I guess I'm still going to have to say I  
14 don't know.

15 Q. Can you think of any product, sir, for  
16 which you could devise a single public opinion  
17 poll to answer questions with respect to  
18 awareness, knowledge and behavior and attitudes  
19 with regard to that product and any hazards  
20 attendant to the use of the product?

21 MR. KEARNEY: Objection to the form of  
22 the question. Can I have the question reread,  
23 please.

24 (Question read.)

25 A. The problem I'm having is that the phrase

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2017012959

Sudman - direct

1 health hazards is so global that it's not clear to  
2 me what you have in mind. You must have something  
3 in mind as you are asking it. I'm not sure what  
4 it is and I can't answer the question. It isn't  
5 the product category I think that's the major  
6 stumbling block here.

7 Q. It's my use of the phrase health  
8 hazard. Is that correct?

9 A. Yes.

10 Q. The phrase health hazard, I have to  
11 define that more narrowly before you could tell me  
12 whether you could devise such a poll. Is that  
13 right?

14 A. I don't know what it is. If you give me a  
15 specific question and ask me whether it's possible  
16 to ask that question, I could respond.

17 Q. Could you devise a public opinion  
18 survey that would answer questions with respect to  
19 awareness, knowledge, behavior and attitudes with  
20 regard to any product and any harmful effects of  
21 that product?

22 A. I think the question is still so general  
23 that I have to say I don't know.

24 Q. Why is that? What is it about the  
25 question that makes it difficult for you to

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2017012960

Sudman - direct

1 answer?

2 A. You are asking me sort of to sit here and  
3 tell you whether I can design a survey. Normally  
4 when someone asks someone to design a survey, they  
5 give a much more detailed expression of what it is  
6 they are looking for. You are asking me sort of  
7 to respond to a very global kind of a question and  
8 I guess the answer is I don't know.

9 Q. If I was a manufacturer of product X  
10 and I came to you and I said, Professor Sudman, I  
11 want to find out what the public is aware of, what  
12 the public's knowledge is, what their behavior is  
13 and what their attitudes are with regard to my  
14 product and anything that they have heard  
15 concerning harmful effects of my product, what  
16 other questions would you want to ask me before  
17 you could devise such an opinion survey?

18 A. We would have to have a long, long  
19 discussion about why the survey is being  
20 conducted.

21 Q. Why is that important, sir?

22 A. Because one of the chief reasons -- I mean  
23 one doesn't do surveys for no reason. There needs  
24 to be a reason for doing the survey and one of the  
25 major problems with collecting data might be that

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2017012961

Sudman - direct

1 the data would not be what, related to what the  
2 survey is supposed to be done for.

3 Q. I want to look into the question that  
4 I just posed to you and I don't really have any  
5 other interest other than finding out this  
6 information. There is no ulterior motive. All I  
7 want to do is find out the information.

8 A. In general, one of the things that we advise  
9 is that data not be collected simply to satisfy  
10 curiosity. That's not why people collect data.  
11 People collect data to have something to do with a  
12 decision process of some sort, data to be used  
13 survey. That's what I'm driving at.

14 Q. Let's assume that I wanted to find out  
15 whether I should put a warning on my product.

16 A. What's the question?

17 Q. What else do you want to know before  
18 you could devise such a survey?

19 A. I guess given the example that you've now  
20 given about trying to decide whether there should  
21 be a warning, and assuming that it was clear what  
22 the warning should be, it would be possible to  
23 design a survey to test that warning.

24 Q. With regard to questions of awareness,  
25 knowledge, behavior and attitudes. Is that

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Sudman - direct

1 correct?

2 MR. KEARNEY: Objection to the form of  
3 the question.

4 A. We are off now.

5 Q. I'm not looking to test the warning, a  
6 devised warning.

7 A. You are not.

8 Q. I came to you, Professor Sudman,  
9 scholar in survey research, and said to you,  
10 Professor, I'm the manufacturer of product A, I  
11 want to find out what people know concerning  
12 health hazards associated with the use of my  
13 product and specifically I want information with  
14 regard to awareness, knowledge, behavior and  
15 attitudes and the reason that I'm conducting this  
16 survey is because I want to decide whether I  
17 should put a warning on my product, now can you  
18 devise for me one opinion survey that will answer  
19 my questions of awareness, knowledge, behavior and  
20 attitudes?

21 MR. KEARNEY: Objection to the form of  
22 the question.

23 A. I think this is the sort of a question where  
24 I'd have to sit down and spend some time thinking  
25 about it, running through possibilities and

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2017012963

Sudman - direct

1 exploring them to see whether at least they might  
2 be feasible. It might be possible but now  
3 certainly just sitting here right now without  
4 having spent some time thinking about it, I guess  
5 I'm not ready to give a top of the head answer as  
6 to whether it is or isn't possible.

7 Q. What would be some of the things that  
8 you would take into consideration to determine  
9 whether or not you could construct and conduct an  
10 opinion poll, one opinion poll, that would answer  
11 my questions with regard to awareness, knowledge,  
12 behavior and attitudes?

13 MR. KEARNEY: Objection to the form of  
14 the question.

15 A. One of the first thing I would want to ask  
16 is why you are so insistent on doing it in one  
17 single poll rather than in a series or in multiple  
18 polls because it might indeed be that what you are  
19 suggesting is better done not in a single poll but  
20 in multiple polls for a variety of reasons.

21 Q. Why don't you tell me what those  
22 reasons are, sir.

23 A. One would simply be respondent fatigue. You  
24 might wind up indeed with a questionnaire which is  
25 so long that people would get tired and that would

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Sudman - direct

1 cause you some problems.

2           The second is that we are aware that  
3 within questionnaires the order of the questions  
4 and the content of earlier questions might  
5 sometimes have an impact on later questions so one  
6 would want to explore whether indeed there might  
7 be problems by including all of these in a single  
8 survey.

9           There might also be issues of asking  
10 people questions about their behavior that would  
11 be difficult for them to answer because the strain  
12 on memory was too great so we would have to  
13 explore carefully whether or not the questions you  
14 ask were reasonable, given what we know about  
15 human memory. These are some of the issues that  
16 come up.

17           Q. With regard to your work in the Palmer  
18 case, did you conduct a content analysis?

19           MR. FARRISH: Objection to the form of  
20 the question.

21           A. I counted the stories that related to  
22 cigarette smoking and health that appeared in the  
23 New York Times and in the Reader's Guide. In my  
24 view, and I don't claim to be an expert on content  
25 analysis, the counting of subject matter

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Sudman - direct

1 information is a form and certainly not the only  
2 form, a form of content analysis.

3 Q. What criteria did you use in order to  
4 categorize an article as relating to cigarette  
5 smoking and health in counting up these articles?

6 A. Basically the article had to relate  
7 specifically to smoking and a specific disease or  
8 health in general and I omitted articles that  
9 simply related to cigarette company profits or  
10 legal cases or issues of tangential -- that is,  
11 unless health was a key issue in the article, if  
12 it was simply implied, I did not include the  
13 article.

14 Q. Did you review the articles?

15 A. I read the summaries which were available in  
16 the New York Times Index, which is a couple of  
17 sentences about what goes on.

18 Q. Did you read the articles?

19 A. No, I did not.

20 Q. You didn't think it was necessary to  
21 read the articles?

22 MR. FARRISH: Objection to the form of  
23 the question.

24 Q. Is that correct, sir?

25 A. I simply report to you that I did not read

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2017012966

Sudman - direct

1 the articles.

2 Q. Did you think it was necessary in  
3 performing this content analysis to review the  
4 actual articles?

5 A. I don't remember whether at the time -- I  
6 simply read the summary in the index.

7 Q. I understand what you did. I'm just  
8 trying to find out whether you thought it was  
9 necessary in performing a content analysis to  
10 review the actual articles or not.

11 MR. KEARNEY: Objection to the form of  
12 the question. You can answer.

13 A. I did not, I don't remember now thinking at  
14 that time about the issue of necessity.

15 Q. As you sit here today, do you have any  
16 thoughts with regard to whether or not it would  
17 have been more appropriate for you to have  
18 reviewed the actual articles in performing your  
19 content analysis as opposed to simply relying upon  
20 a summary in the index to stories in the New York  
21 Times?

22 MR. KEARNEY: Objection to the form of  
23 the question.

24 MR. PARRISH: Object to the form of  
25 the question.

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Sudman - direct

1 A. For the purposes for which I did this, I'm  
2 persuaded the method I used was perfectly  
3 appropriate.

4 Q. When you say you did this, is it your  
5 testimony that you did perform a content analysis,  
6 formal content analysis?

7 MR. KEARNEY: Objection to the form of  
8 the question.

9 A. I think I answered that question already,  
10 didn't I? Didn't you ask me whether I did a  
11 content analysis?

12 MR. KEARNEY: Do you want him to  
13 answer it again, Mr. Edell?

14 MR. EDELL: I'd like him to answer the  
15 question.

16 MR. KEARNEY: Read the question,  
17 please.

18 (Question read.)

19 A. Would you tell me what you mean by formal  
20 content analysis.

21 Q. Let me ask you this, sir. Is a  
22 content analysis a method by which scholars  
23 examine news articles, literature and other  
24 materials in order to research certain subjects?

25 MR. KEARNEY: Objection to the form of

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2017012968

Sudman - direct

1 the question.

2 THE WITNESS: Would you repeat the  
3 question, please.

4 (Question read.)

5 A. I think that's a reasonable description.

6 Q. What's your definition of content  
7 analysis, formal content analysis?

8 MR. KEARNEY: Objection to the form of  
9 the question. He asked you what you mean when you  
10 say formal content analysis.

11 MR. EDELL: I told him.

12 MR. KEARNEY: What do you mean? I  
13 must have missed that. What is a formal content  
14 analysis?

15 MR. EDELL: If you missed it, then  
16 we'll have to read the transcript back. I have  
17 another question here and I'm asking the witness  
18 what his definition of a formal content analysis  
19 is.

20 A. I don't have one.

21 Q. Let me make sure I'm not mistaken. I  
22 could have sworn in Sudman Exhibit 1 you used the  
23 phrase "content analysis," did you not, sir? In  
24 the first paragraph, did you use that phrase?  
25 First paragraph.

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2017012969

Sudman - direct

1 A. (Examining document.)

2 Q. "The indirect method is through  
3 content analysis of media to determine the  
4 frequency with which this issue is discussed." Do  
5 you see that?

6 A. Yes.

7 Q. What did you mean by "content  
8 analysis" in the context of that sentence?

9 A. What I meant is what I did.

10 Q. Have you read scholarly literature  
11 concerning content analysis?

12 A. Ever? Have I ever read?

13 Q. Ever.

14 A. Yes.

15 Q. In the context of the work that you  
16 do, do you continue to read scholarly literature  
17 in the area of content analysis?

18 MR. KEARNEY: Objection to the form of  
19 the question.

20 A. As it's appropriate to what I'm interested  
21 in, I will read information related to content  
22 analysis.

23 Q. What information is that, sir? What  
24 information is it that you read regarding content  
25 analysis?

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2017012970

Sudman - direct

1 A. Journals, articles.

2 Q. Are there people who are experts in  
3 content analysis?

4 A. I don't know.

5 Q. Are there scholars on content  
6 analysis?

7 A. I don't know.

8 Q. Do you know anyone who has ever  
9 authored an article on content analysis?

10 A. Yes.

11 Q. Who is that, sir?

12 A. I have.

13 Q. What's the title of your article?

14 A. It's a paper which appeared in the Annual  
15 Review of Sociology on the use of survey methods.

16 Q. Did you define content analysis in  
17 that paper?

18 A. No.

19 Q. In performing a content analysis, are  
20 there any research criteria that you apply?

21 A. I'm not sure what you mean.

22 Q. Maybe if we talk about it in terms of  
23 survey research. I assume that there is some  
24 research criteria that you apply when you perform  
25 an opinion survey. Is that right? In conducting

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2017012971

Sudman - direct

1 the study you look to see whether your sample of  
2 the general public is representative of the  
3 general public, don't you? You want to see  
4 whether or not the results are within a certain  
5 variance, don't you?

6 A. The answer is no to both of those.

7 Q. All it does is show my ignorance but  
8 there must be some research criteria that you  
9 employ when you devise an opinion research survey,  
10 are there not, sir?

11 A. The question is so general that I can't  
12 answer it in that form. If you talk about a  
13 specific survey with a specific purpose, then it's  
14 possible for me to -- there are not criteria which  
15 are always applied to everything.

16 Q. In performing a content analysis, did  
17 you attempt to be objective?

18 A. Are you asking this in the future or is this  
19 the past tense? Are you asking me about my  
20 behavior when I did this one?

21 Q. You told me you wrote an article on  
22 content analysis.

23 A. Yes.

24 Q. You told me that you performed a  
25 content analysis in this case.

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2017012972

Sudman - direct

1 A. Yes.

2 Q. When you perform content analysis, did  
3 you attempt to be objective?

4 MR. KEARNEY: Objection to the form of  
5 the question.

6 A. I can report on past behavior. Is that what  
7 you want? Did I attempt to be objective when I  
8 was reporting, when I did this content analysis?  
9 Is that what you mean?

10 Q. Whenever you conduct a content  
11 analysis, did you, Professor Sudman, attempt to be  
12 objective?

13 MR. KEARNEY: Objection to the form of  
14 the question.

15 A. It's not obvious to me that the word  
16 objective made any sense in the content analyses  
17 that I've done. That wasn't an issue in the cases  
18 that I did.

19 Q. In performing the content analysis  
20 which you have performed or ever performed, have  
21 you attempted to be systematic?

22 A. Systematic?

23 Q. Systematic.

24 A. Tell me what you mean by systematic.

25 Q. If you don't understand what I mean,

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2017012973

Sudman - direct

1 I'll ask you another question. In performing  
2 content analysis, did you attempt to minimize  
3 researcher subjectivity?

4 A. Again, I don't think that's relevant. That  
5 sounds very much like the earlier one and doesn't  
6 seem to apply to what I've done.

7 Q. In performing your content analysis in  
8 this case, did you make any determination as to  
9 whether the articles that you considered to relate  
10 to cigarette smoking and health made an  
11 affirmative statement with regard to the  
12 relationship between cigarette smoking and health?

13 MR. KEARNEY: Objection to the form of  
14 the question.

15 THE WITNESS: Would you read the  
16 question again.

17 Q. Maybe there's some confusion by the  
18 way I phrased it. Maybe I can clarify it. For  
19 the purpose of your content analysis, did you make  
20 any determination as to whether or not an article  
21 related cigarette smoking to disease?

22 A. These were all articles that related  
23 cigarette smoking and health. Does that qualify?

24 Q. Let me see if I can get it this way.  
25 Did you include in your content analysis articles

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Sudman - direct

1 in which the summary questioned the relationship  
2 between cigarette smoking and disease?

3 A. Yes.

4 Q. Did you include in your content  
5 analysis articles in which people refuted the  
6 relationship between cigarette smoking and  
7 disease?

8 A. Yes.

9 Q. So to be included in your content  
10 analysis, the article did not specifically have to  
11 state that cigarette smoking is related to  
12 disease. Is that right?

13 MR. KEARNEY: Objection to the form of  
14 the question.

15 A. Articles that discussed cigarette smoking  
16 and health were included regardless of the  
17 position -- the news article was an article that  
18 reported typically someone writing or saying  
19 something about this relationship.

20 Q. But the someone could be saying that  
21 cigarette smoking was unrelated to disease.  
22 Correct?

23 A. Yes.

24 Q. They could be saying that cigarette  
25 smoking hadn't been proven to be related to

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2017012975

Sudman - direct

1 disease. Is that correct?

2 A. Yes.

3 Q. It could even in fact be statements  
4 simply indicating that there was legislation  
5 pending with regard to cigarette smoking. Is that  
6 correct?

7 A. No. That I thought was too indirect so I  
8 excluded those.

9 Q. Did you include in your content  
10 analysis articles which simply indicated that  
11 there were studies being conducted with respect to  
12 cigarette smoking and whether it caused disease?

13 A. If it was something that said a study would  
14 be done or that a study was in progress, no, it  
15 was not included. Only if there were results.

16 Q. Did you do any other work in the  
17 Palmer case other than review the opinion surveys  
18 that you told us, review the indices that you told  
19 us and perform this content analysis and prepare  
20 Sudman Exhibit 1?

21 A. I can't think of anything else at this time.

22 Q. In addition to the work that you  
23 performed in the Palmer case, did you do any new  
24 work in relationship to this case?

25 A. Yes, I have.

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Sudman - direct

1 Q. What was that?

2 A. I've looked at a number of other polls that  
3 have been conducted in addition to those I looked  
4 at in the Palmer case.

5 Q. Did you seek out those other polls?

6 A. Yes.

7 Q. Why did you feel that it was necessary  
8 to review those polls in this case and not in the  
9 Palmer case?

10 MR. KEARNEY: Objection to the form of  
11 the question.

12 A. The issues, as I understand them in this  
13 case, are somewhat broader than they are in the  
14 Palmer case.

15 Q. What are the issues that are broader  
16 in this case than in the Palmer case?

17 A. As I understand it, they relate to public  
18 awareness of other kinds of relations with other  
19 illnesses; with other diseases or they may.

20 Q. That necessitated looking at  
21 additional polls. Is that correct?

22 A. Yes.

23 Q. What additional polls did you seek  
24 out, sir?

25 A. The polls I can remember looking at include

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2017012977

Sudman - direct

1 polls conducted for the Department of Health,  
2 Education & Welfare, a series of polls conducted  
3 for them, and in addition, there were polls  
4 conducted for the Tobacco Institute and Philip  
5 Morris and a poll conducted for the Federal Trade  
6 Commission or polls conducted for the Federal  
7 Trade Commission.

8 Q. Did you prepare any additional  
9 writings or generate any typed or written  
10 materials in this case?

11 A. There are some notes that I prepared.

12 Q. These computer sheets that you brought  
13 here today, were these generated in the Falner  
14 case?

15 A. Yes.

16 THE WITNESS: Can we take a break  
17 whenever it's convenient?

18 MR. EDSELL: We can take a break right  
19 now.

20 (Short break.)

21 Q. In performing any of the work that you  
22 did with respect to the Falner case, did you have  
23 assistance from anyone other than a lawyer or an  
24 employee of any law firm?

25 MR. KEARNEY: Objection to the form of

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2017012978

Sudman - direct

1 the question.

2 A. No one other than myself.

3 Q. You didn't use a research assistant or  
4 another colleague to help you. Is that correct?

5 A. I did not use a research assistant or a  
6 colleague.

7 Q. Did you use anyone to help you in your  
8 work that you performed in the Palmer case?

9 A. Secretarial.

10 Q. Was the secretarial help limited to  
11 typing?

12 A. Yes.

13 Q. In regard to your work in this case,  
14 did you receive any assistance from anyone?

15 A. Assistance?

16 Q. Assistance, help, aid.

17 A. The attorneys have helped me get some of the  
18 material.

19 Q. What materials did the attorneys help  
20 you get?

21 A. Material which was not in the public domain,  
22 Tobacco Institute studies.

23 Q. Did you ask them to give you all  
24 surveys that were performed or did they say here  
25 are some surveys that we have gathered together

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2017012379

Sudman - direct

1 that have been performed?

2 A. I don't remember how -- would you ask that  
3 question one more time?

4 Q. Sure. Did you go to Mr. Kearney or  
5 some other lawyer and say let me have all the  
6 surveys that were ever conducted for the Tobacco  
7 Institute or did he say Professor, here are some  
8 studies that were performed for the Tobacco  
9 Institute?

10 MR. KEARNEY: Objection to the form of  
11 the question.

12 A. I don't think either one of those statements  
13 characterizes exactly what was done.

14 Q. How did you know what opinion polls  
15 existed which were not in the public domain?

16 MR. KEARNEY: Objection to the form of  
17 the question.

18 A. The attorneys informed me that there were  
19 some polls that were available that had already  
20 been introduced somehow into this case.

21 Q. Did you examine all of the polls that  
22 they told you had somehow been introduced in this  
23 case?

24 A. I tried to examine everything that was  
25 available. Sitting here, it's conceivable I may

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2017012980

Sudman - direct

1 have missed something.

2 Q. All of the studies that you did review  
3 had been provided in response to the subpoena. Is  
4 that correct?

5 A. I'm sorry. I don't really know.

6 Q. Who responded to the subpoena?

7 A. I don't know.

8 MR. EDELL: Maybe you can clarify it  
9 for him, Mr. Kearney.

10 MR. KEARNEY: All of the studies that  
11 we obtained from Professor Sudman were produced to  
12 you. It's my understanding that all of the  
13 studies that he has reviewed have been produced to  
14 you.

15 MR. EDELL: Were all of the studies  
16 that were provided to him produced in any way in  
17 this case?

18 MR. KEARNEY: Any study that he  
19 reviewed that were provided to him by me or which  
20 he got on his own was produced to you.

21 MR. EDELL: Thank you.

22 Q. In reviewing Sudman Exhibit 1, you  
23 use, for example, in the last full sentence of the  
24 first sentence, "In this report we summarize both  
25 the direct and indirect measurements." The we is

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2017012981

Sudman - direct

1 just you?

2 A. Yes. Editorial.

3 Q. Did you review any additional  
4 articles, newspaper articles or periodicals or any  
5 additional indices in your work in this case?

6 A. Yes. I added several more years in the  
7 eighties, the New York Times Index and the  
8 Reader's Guide.

9 Q. Why did you do that?

10 A. The data existed and I received an  
11 indication that there might be some questions  
12 asked about.

13 MR. EDELL: Could you mark this,  
14 please.

15 (Sudman Exhibit 2 marked for  
16 identification.)

17 Q. Professor Sudman, I show you what has  
18 been marked Sudman Exhibit 2 for identification.  
19 Can you tell us what that is, please.

20 A. This entire set?

21 Q. Yes.

22 A. (Examining document.) I guess I would  
23 describe these in general as working notes that I  
24 prepared for my use in summarizing some of the  
25 data I examined.

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2017012982

Sudman - direct

1 Q. Look at the first page, please.

2 A. Yes.

3 Q. What is that?

4 A. The title is number of articles on health  
5 dangers of cigarette smoking, New York Times and  
6 Reader's Guide to Periodical Literature.

7 Q. You prepared that?

8 A. Yes, I did.

9 Q. What periodicals were included in your  
10 listing of articles that appeared in periodicals  
11 during the years 1948 through 1985?

12 A. You mean where it says Reader's Guide to  
13 Periodicals? Yes.

14 A. These are all periodicals that are indexed  
15 in the Reader's Guide, essentially consumer  
16 articles. That is, professional journals are not  
17 included.

18 Q. Did you make any attempt to see what  
19 circulation the periodical had that contained  
20 articles concerning health dangers of cigarette  
21 smoking and which were listed in your first page  
22 of Sudman Exhibit 2?

23 A. I made no special effort to compute  
24 circulations but I noted that these were the major  
25 consumer magazines which have the largest

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Sudman - direct

1 circulations.

2 Q. How did you know that for 1948 or 1949  
3 or 1950?

4 A. 1948 and 1949 doesn't make any sense because  
5 those are zero.

6 Q. Then let's go to 1950.

7 A. For 1950 they were magazines like Life and  
8 so on. My impression was that they had very large  
9 circulations.

10 Q. Please turn to that portion of your  
11 notes where you begin listing for 1948 information  
12 regarding the New York Times Index. Do you see  
13 that, sir?

14 A. Yes, I do.

15 Q. There are two articles for 1948, one  
16 from March 27 and the other for October 31. Is  
17 that correct?

18 A. Yes.

19 Q. Those are the two articles that are  
20 reflected on the first page of Sudman Exhibit 2?

21 A. Yes. On the first page?

22 Q. The two New York Times articles, yes.

23 A. Yes, the two.

24 Q. Are all of the articles which are  
25 summarized in your handwriting part of the summary

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2017012984

Sudman - direct

1 which appeared on the first page of Sudman Exhibit  
2 2?

3 MR. KEARNEY: Objection to the form of  
4 the question. You can answer it.

5 A. I believe that's correct, yes.

6 Q. So, for example, take a look at the  
7 second page of your handwritten summaries of the  
8 New York Times Index.

9 A. Yes.

10 Q. For example, November 19, 1951, is it,  
11 sir? Do you see that?

12 A. Yes.

13 Q. It says American Cancer Society plans  
14 study, New Jersey, is that of smoking, as lung  
15 cancer cause?

16 A. Yes.

17 Q. You listed that in the total of  
18 articles for the year 1951. Is that correct?

19 A. That appears to be correct, yes.

20 Q. Is there any question in your mind as  
21 to whether that's correct?

22 A. No. It has been a bit since I've done this  
23 but that seems to be correct.

24 Q. Turn to the next page, for example,  
25 for December 9, 1953. I'm trying to read your

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2017012985

Sudman - direct

1 handwriting and I misread this. Go down to May,  
2 is it 14 for 1953, Bellevue Medical Center,  
3 Industrial Medicine Institute studies smoking and  
4 engine exhaust inhalations as lung growth cause?

5 A. Yes.

6 Q. Is that correct?

7 A. I think so, yes.

8 Q. Was that listed as one of the articles  
9 appearing in 1953 and part of your summary which  
10 is the first page of Sudman Exhibit 2?

11 A. I think so.

12 Q. Why did you include that, sir, as an  
13 article regarding the health dangers of cigarette  
14 smoking?

15 A. I'm trying to remember now. Obviously in  
16 1985 I thought this fit.

17 Q. Let's go down to October 5, 1953,  
18 Americans Surgeons College panel urges cigarette  
19 manufacturing companies finance study on suspected  
20 link between smoking and lung growths. Was that  
21 listed in your summary which is the first page of  
22 Sudman Exhibit 2 for identification?

23 A. I believe so, yes.

24 Q. Why did you list that as an article on  
25 health dangers of cigarette smoking?

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2017012986

Sudman - direct

1 A. Obviously at the time I thought it fit.

2 Q. Why is it, sir, that you made notes  
3 with respect to certain articles and not others?

4 MR. KEARNEY: Objection to the form of  
5 the question.

6 A. At some point as the number of articles  
7 increased, I thought it would be easier to Xerox  
8 the pages from the New York Times Index rather  
9 than simply writing down what was going on and  
10 then I switched at some point to Xeroxing the  
11 pages.

12 Q. In performing this content analysis,  
13 the only quantitative analysis that you performed  
14 was the number of articles. Is that correct?

15 MR. KEARNEY: Objection to the form of  
16 the question.

17 A. Yes.

18 Q. You did no specific content analysis  
19 with regard to the specific content of the  
20 articles. Is that right, sir?

21 MR. KEARNEY: Objection to the form of  
22 the question.

23 A. The subject is part of the content.

24 Q. You didn't perform a content analysis  
25 to see how many articles appeared in the New York

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Sudman - direct

1 Times for the years 1948 through 1985 which  
2 concluded that cigarette smoking was a cause of  
3 lung cancer. Is that right?

4 MR. KEARNEY: Can I have the question  
5 reread, please.

6 (Question read.)

7 A. The content analysis that I did was related  
8 to health in general and not just to lung cancer  
9 and so I did not do something specifically to  
10 separate out lung cancer.

11 Q. Did you do a content analysis of  
12 articles in the New York Times which concluded  
13 that there was a relationship between cigarette  
14 smoking and health dangers?

15 A. That concluded?

16 Q. You want it read back, sir?

17 MR. KEARNEY: Let's have it read  
18 back.

19 (Question read.)

20 Q. Let me rephrase the question, sir.  
21 Did you do a content analysis to ascertain how  
22 many articles appeared in the New York Times  
23 during the time period of 1948 through 1985 that  
24 concluded that there were health dangers  
25 associated with the use of cigarettes?

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Sudman - direct

1 A. No.

2 Q. Did you do a content analysis to  
3 ascertain how many articles appeared in the New  
4 York Times during the time period 1948 through  
5 1985 that questioned the relationship between  
6 health dangers and cigarette smoking?

7 MR. KEARNEY: Objection to the form of  
8 the question.

9 A. I simply did what you see in the notes, a  
10 content analysis of the relationship between the  
11 health dangers of cigarette smoking and health.

12 MR. EDELL: Could you read the  
13 question back for the witness.

14 (Question read.)

15 MR. KEARNEY: Do you have another  
16 question, Marc?

17 MR. EDELL: I would like an answer to  
18 the question.

19 MR. KEARNEY: He already answered it.

20 Q. Did you or did you not perform such a  
21 content analysis, sir?

22 A. That questioned the relationship?

23 THE WITNESS: Please read it one more  
24 time. I'm sorry. It's a long question.

25 MR. KEARNEY: Fine.

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Sudman - direct

1 (Question read.)

2 A. I did not.

3 Q. Do you know how many of all of these  
4 articles that are listed on the first page of  
5 Sudman Exhibit 2 for identification related  
6 cigarette smoking to disease?

7 MR. KEARNEY: Objection to the form of  
8 the question.

9 A. I'm sorry. Is that a new question or is  
10 that something I've answered?

11 Q. This is a new question. Do you know  
12 how many of those articles appearing in the New  
13 York Times as summarized on the first page of  
14 Sudman Exhibit 2 related cigarette smoking to  
15 disease?

16 MR. KEARNEY: Objection to the form of  
17 the question. You can answer the question if you  
18 can understand it.

19 MR. EDELL: He can't answer a question  
20 if he doesn't understand it.

21 MR. KEARNEY: That's probably  
22 accurate.

23 MR. EDELL: So why are you cueing your  
24 witness?

25 MR. KEARNEY: I don't understand the

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Sudman - direct

1 question. He obviously doesn't understand. He  
2 doesn't understand whether this question is  
3 different from an earlier question and you seem to  
4 be satisfied with not clarifying it.

5 A. How do you mean related? I guess that's  
6 what's causing me the problem.

7 Q. I'll clarify it. Thank you. How many  
8 of these articles which you've totaled on the  
9 first page of Sudman Exhibit 2 for identification  
10 affirmatively relate cigarette smoking to health  
11 dangers?

12 MR. KEARNEY: Objection to the form of  
13 the question.

14 A. By affirmatively relate, would you perhaps  
15 put that another way because I'm a little fuzzy.

16 Q. That there is possibly a relationship,  
17 probably a relationship, definitely a relationship  
18 as opposed to it hasn't been proven, we don't  
19 know. Do you understand now?

20 A. Yes.

21 Q. Would you answer the question?

22 A. I don't know.

23 Q. With respect to the articles that you  
24 listed on Sudman Exhibit 2 for identification,  
25 where did the articles appear in the New York

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Sudman - direct

1 Times? The first page, the 10th page? Do you  
2 have any idea?

3 A. I didn't tabulate that.

4 Q. That wasn't important for your  
5 consideration?

6 A. I didn't tabulate that.

7 Q. Was it important for your  
8 considerations in this matter?

9 A. That was not something I tabulated.

10 Q. I understand you didn't tabulate it.  
11 Does that mean it wasn't important?

12 A. I didn't consider the issue of importance.

13 Q. Do you know how long any of these  
14 articles were that you've summarized on Sudman  
15 Exhibit 2 for identification, whether they were a  
16 paragraph or two sentences or a whole page?

17 A. I didn't tabulate that either.

18 Q. You didn't think that that was  
19 important, necessary? Is that correct?

20 MR. KEARNEY: Objection to the form of  
21 the question.

22 A. I didn't consider the issue of importance.

23 Q. I assume that you did everything that  
24 you thought was necessary in order to conclude or  
25 to come to your conclusions as expressed in the

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2017012992

Sudman - direct

1 report provided by the defendants on your behalf  
2 and as appears in Sudman Exhibit 1 for  
3 identification. Is that correct?

4 THE WITNESS: Would you read that  
5 again, please?

6 Q. Sure. Did you do everything that you  
7 thought was necessary in order to express those  
8 opinions which appeared in the report furnished by  
9 the defendants in this matter?

10 A. I'm not sure I can answer that question. At  
11 some point obviously I stopped.

12 Q. Did you think that you did everything  
13 that was necessary in order to support your  
14 opinions in this matter?

15 A. I don't think I made up my mind on that  
16 issue at the moment I stopped.

17 Q. Is there anything that you still think  
18 you should do?

19 A. As of this moment, nothing occurs to me but  
20 something might occur to me that I might want to  
21 do.

22 Q. The articles that you listed on the  
23 first page of Sudman Exhibit 2 for identification,  
24 did those reflect consumer awareness concerning  
25 the health hazards associated with the use of

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Sudman - direct

1 cigarettes?

2 MR. KEARNEY: Objection to the form of  
3 the question.

4 A. These are input measures. The polls that I  
5 report on are the measures which reflect on  
6 consumer awareness.

7 Q. What's an input measure, sir?

8 A. People have to find out about something from  
9 somewhere. Where they find out are input  
10 measures.

11 Q. Can you by examining the articles that  
12 are listed on the first page of Sudman Exhibit 2  
13 as having appeared in the New York Times conclude  
14 what consumer awareness was during the various  
15 years listed on that page?

16 A. No. That's what the polls are for.

17 Q. Is there any academic discipline that  
18 you are aware of that would permit an individual  
19 to review the New York Times articles listed in  
20 Sudman Exhibit 2 for identification and conclude  
21 what consumer awareness was at the various points  
22 in time listed on that paper?

23 THE WITNESS: Can I hear the question  
24 again, please.

25 (Question read.)

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2017012994

Sudman - direct

1           MR. KEARNEY: Objection to the form of  
2 the question.

3 A.       Obviously different disciplines use  
4 information from the New York Times for their  
5 purposes. I just don't know what they would do  
6 with it.

7           Q.       What academic disciplines are you  
8 aware of that would permit one to draw conclusions  
9 with respect to consumer awareness of the health  
10 hazards associated with the use of cigarettes  
11 based upon a review of the New York Times articles  
12 listed on Sudman Exhibit 2 for identification?

13           MR. KEARNEY: Objection to the form of  
14 the question.

15 A.       I just don't know.

16           Q.       Am I correct that the reason that you  
17 made an examination of the index to the New York  
18 Times was to verify the information reflected in  
19 the polls? Is that correct?

20 A.       Well, that's close. Basically it was in a  
21 sense to provide an alternative measure which was  
22 independent of the polls which might then be used  
23 to demonstrate that the polls had basically gotten  
24 it right.

25           MR. EDELL: Could you read the

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2017012995

Sudman - direct

1 response back, please.

2 (Answer read.)

3 Q. What did your content analysis of the  
4 index to stories in the New York Times measure?

5 MR. KEARNEY: Objection to the form of  
6 the question.

7 A. Is this a new question? I thought it was  
8 something I had already answered.

9 Q. Would you answer the question, sir?

10 MR. KEARNEY: Let's have the question  
11 reread.

12 (Question read.)

13 A. It measured the number of stories that were  
14 in the New York Times that were related, that had  
15 both a discussion of cigarettes and health in the  
16 story.

17 Q. Do the opinion surveys also measure  
18 how many articles appeared in the New York Times  
19 which related to cigarette smoking and health?

20 A. No. They measure opinions, attitudes,  
21 behavior.

22 Q. There were no handwritten notes that I  
23 saw at least, and please correct me if I'm wrong,  
24 summarizing what appeared in the Reader's Guide to  
25 Periodicals. Is that correct?

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2017012996

Sudman - direct

1 A. No.

2 Q. Where are the notes?

3 A. There are pages at the back where this is  
4 the case. These are obviously not numbered but  
5 the pages at the back relate to the Reader's  
6 Guide.

7 Q. For example, for 1949 through 1950,  
8 you have a listing of Science Digest.

9 A. I will have to find that. I'll have to see  
10 where that is. Yes, I see that.

11 Q. 12th from the back.

12 MR. EDELL: Let's mark that as Sudman  
13 Exhibit 2A.

14 (Sudman Exhibit 2A marked for  
15 identification.)

16 Q. Do you want to make a correction to  
17 something you said before the break or after the  
18 break?

19 MR. KEARNEY: I object to that.

20 A. I really don't remember.

21 Q. You don't remember when you made the  
22 statement, whether it was before we took the  
23 morning break or whether it was after the morning  
24 break?

25 A. No, I can't remember whether it was before

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2017012997

Sudman - direct

1 or after.

2 Q. Was this correction something that you  
3 discussed with counsel?

4 A. No.

5 Q. Then why don't you make the  
6 correction.

7 A. It's something which in fact you generated.  
8 I said I think at some point that I had not used  
9 proposed studies in counting the number of stories  
10 that related cigarette smoking and health and you  
11 demonstrated to me by a series of questions you  
12 asked that I obviously did include proposed  
13 studies as well as studies that had actually been  
14 conducted, so it has been now awhile and until you  
15 reminded me, I hadn't remembered including studies  
16 where the study was proposed so those are also in.

17 Q. Thank you for clarifying that. Take a  
18 look at Sudman Exhibit 2A, please. During the  
19 year 1949 through 1950, you list Science Digest as  
20 the first entry?

21 A. Yes.

22 Q. What is Science Digest, sir?

23 A. It's a magazine. These are all magazines.

24 Q. I understand that. What's its  
25 circulation?

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2017012998

Sudman - direct

1 A. I don't know.

2 Q. Do you know whether it's something  
3 that's read by most people or whether it's read by  
4 people with specific interests?

5 MR. KEARNEY: Object to the form.

6 A. I don't know who the readers of Science --  
7 it is one of the magazines included in the  
8 Reader's Guide. It is not a specialized  
9 magazine. It's one of general circulation.

10 Q. Have you ever read it?

11 A. Yes.

12 Q. Take a look under 1952. Christian  
13 Century is that?

14 A. Yes.

15 Q. Is that something that you see on your  
16 newsstand all the time?

17 MR. KEARNEY: Objection to the form of  
18 the question.

19 Q. Sir?

20 A. Christian Century?

21 Q. Yes.

22 A. Some newsstands carry it and some don't.

23 Q. Is that something you usually read?

24 A. Do I usually read it? No.

25 Q. Would you turn the page. I can't read

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2017012999

Sudman - direct

1 some of this so maybe you can help me. What's the  
2 first entry?

3 A. It looks to me like Scientific American.

4 Q. What's the next one?

5 A. American Mercury.

6 Q. It's another one of the popular  
7 periodicals?

8 MR. KEARNEY: Objection to the form of  
9 the question.

10 MR. FARRISH: Object to the form of  
11 the question.

12 Q. Is that correct?

13 A. In 1954 it was a circulated among the  
14 general public. It was included in Reader's  
15 Guide.

16 Q. Do you know what the demographics of  
17 its readership was?

18 A. I don't know what the demographics of the  
19 readership of any of these magazines are.

20 Q. Why is it, sir, that you didn't  
21 prepare any summaries of the articles for any of  
22 the articles that were listed in the Reader's  
23 Guide?

24 A. I counted the articles.

25 Q. You didn't summarize them, is that

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2017013000

Sudman - direct

1 correct, as you did with some of the New York  
2 Times articles. Is that right?

3 A. Yes.

4 Q. Was there a reason?

5 A. I'm trying to remember. It has been a  
6 couple of years. My memory tells me that the  
7 Reader's Guide is very readily available and I  
8 felt that if it were necessary, one could always  
9 go back and get the information.

10 Q. How many of these articles listed  
11 under the column Reader's Guide to Periodicals on  
12 Sudman Exhibit 2 for identification affirmatively  
13 relate the use of cigarettes to health dangers?

14 MR. KEARNEY: Objection to the form of  
15 the question.

16 A. I don't know.

17 Q. How many of the articles listed under  
18 the column Reader's Guide to Periodicals on Sudman  
19 2 for identification questions the relationship  
20 between cigarette smoking and health dangers?

21 MR. KEARNEY: Objection to the form of  
22 the question.

23 A. I don't know.

24 Q. How many of the articles listed under  
25 the column Reader's Guide to Periodicals on Sudman

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2017013001

Sudman - direct

1 2 for identification simply relate that there are  
2 proposed studies with respect to the health  
3 dangers of cigarette smoking?

4 A. I don't know.

5 Q. Have you ever previously conducted a  
6 content analysis prior to the work that you did in  
7 this and the Palmer case?

8 A. Yes.

9 Q. Can you tell us about any such content  
10 analysis?

11 A. I told you earlier --

12 Q. You told me you wrote a paper.

13 MR. KEARNEY: Object. Let him answer  
14 the question, please. Don't interrupt him in the  
15 middle of an answer.

16 Q. Can you just, before you continue,  
17 this may be in direct contravention to Mr.  
18 Kearney's statement, where does that article  
19 appear on the curriculum vitae that we have been  
20 furnished in this case?

21 A. (Examining document.) Shall I read you or  
22 point to it?

23 MR. KEARNEY: He just asked where.

24 Q. You can just check it off with a red  
25 pen.

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2017013002

Sudman - direct

1 A. (Complying.)

2 Q. Other than your work in the Palmer  
3 case and the work you performed in this case and  
4 this one article that you've checked off and read  
5 on your January 1987 curriculum vitae, what other  
6 content analysis have you performed?

7 A. I can't think of any at this time.

8 Q. What was the purpose of the content  
9 analysis that you performed which was included in  
10 this paper entitled "Sample surveys" which you  
11 checked off on your curriculum vitae?

12 A. It was to measure how important survey  
13 research had become as a research tool.

14 Q. What materials did you perform a  
15 content analysis of?

16 A. I chose leading journals in the social  
17 sciences.

18 Q. Did you simply count the number of  
19 articles?

20 A. I counted the number of articles that  
21 contained survey research methodology.

22 Q. Did you do a content analysis of this  
23 specific information contained in these various  
24 articles?

25 MR. KEARNEY: Objection to the form of

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2017013003

Sudnan - direct

1 the question.

2 A. I counted -- yes, that was a content  
3 analysis of did they contain information that  
4 indicated that survey research had been conducted.

5 MR. EDELL: Let's take a break.

6 (Short break.)

7 Q. You talked about questionnaires  
8 before, Professor Sudnan. How do you know whether  
9 a questionnaire is a good one, a bad one?

10 A. Where shall I start?

11 Q. Start from the beginning.

12 MR. KEARNEY: How about with an  
13 objection to the form of the question.

14 A. To start with, obviously you can't know  
15 whether a questionnaire is a good one or a bad one  
16 unless you know what it's intended to do. First  
17 of all, one has to know what the purpose is of the  
18 questionnaire. If it doesn't achieve that  
19 purpose, it's a bad one.

20 Q. How do you ascertain whether or not it  
21 does or doesn't achieve the purpose of the survey  
22 that you intend to conduct?

23 A. Assuming I were asked to ascertain whether  
24 the questionnaire achieves the purpose, somebody  
25 would have to tell me what the purpose is.

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2017013004

Sudman - direct

1 Q. Should you be able to look at a  
2 questionnaire and ascertain what its purpose is?

3 MR. KEARNEY: Objection to the form of  
4 the question.

5 A. That's so general that -- sometimes yes and  
6 sometimes no.

7 Q. If it's a good questionnaire, if it's  
8 a questionnaire that has been prepared properly in  
9 order to inquire into an intended purpose, should  
10 you as an expert in survey research be able to  
11 read the questions and conclude what the intended  
12 purpose of the questionnaire was?

13 MR. KEARNEY: Objection to the form of  
14 the question.

15 A. Again I think that's so general I don't  
16 know. Sometimes yes and sometimes not.

17 Q. Depending upon what, sir?

18 A. You give me a specific questionnaire and we  
19 could -- there are just so many other --

20 Q. Let me see if I can give you a  
21 specific questionnaire. Let's take a look at this  
22 questionnaire.

23 A. (Examining document.)

24 Q. This is Needle Exhibit 1 for  
25 identification.

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2017013005

Sudman - direct

1 A. What's the question?

2 Q. Can you tell me the purpose of the  
3 study for which that questionnaire was devised?

4 A. No.

5 Q. Can you tell me whether or not any of  
6 the questions would elicit information with regard  
7 to beliefs concerning cigarette smoking and any  
8 health hazards?

9 A. Yes, there are questions which could elicit  
10 information on beliefs.

11 Q. Which questions are those, sir?

12 A. Number three.

13 Q. How would that elicit information  
14 concerning beliefs regarding any health risks  
15 associated with cigarette smoking?

16 A. The question reads: "Among 100 cigarette  
17 smoker, how many of them do you think will get  
18 lung cancer because they smoke?" That seems to  
19 have something to do with smoking and lung  
20 cancer. It seems to be obtaining what I think of  
21 as a belief.

22 Q. Would question number three similarly  
23 elicit information concerning knowledge regarding  
24 cigarette smoking and disease?

25 A. Yes.

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2017013006

Sudman - direct

1 Q. Would it similarly reflect attitude  
2 with respect to cigarette smoking and disease?

3 MR. KEARNEY: Objection to the form of  
4 the question.

5 A. Tell me how you differentiate attitude and  
6 belief here.

7 Q. You just used those four terms  
8 previously, sir, attitude, belief, behavior and  
9 awareness, and I thought there was a reason why  
10 you differentiated between them. If there's no  
11 difference, fine, tell me.

12 A. I don't think in this particular  
13 situation -- normally when one thinks of an  
14 attitude, it's something that has been well  
15 formulated in advance of the question and it's not  
16 obvious that people have thought about this  
17 question sufficiently to have a firm attitude on  
18 it.

19 Q. If the respondent indicated "don't  
20 know" and simply provided his or her best guess,  
21 would that best guess reflect the respondent's  
22 beliefs with respect to cigarette smoking and risk  
23 of disease?

24 MR. KEARNEY: Objection to the form of  
25 the question.

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2017013007

Sudman - direct

1 A. I think it reflects what it says, best  
2 guess.

3 Q. Is a best guess different than what  
4 their opinion is concerning the risk of cigarette  
5 smoking and disease?

6 MR. KEARNEY: Objection to the form of  
7 the question.

8 A. A best guess is a best guess.

9 Q. So you wouldn't break it down into two  
10 questions, "Among 100 cigarette smokers, how many  
11 of them do you think will get lung cancer because  
12 they smoke" and separate the second part into an  
13 additional question, "If you don't know, just your  
14 best guess will do." You wouldn't separate it on  
15 a questionnaire. Is that correct, sir?

16 A. If indeed the coding of this question  
17 indicates that the answer followed the probe,  
18 essentially that's been done. I don't know how  
19 this question was coded.

20 Q. If the coding was not such that the  
21 response would be noted as following the probe,  
22 would you have broken it down into separate  
23 questions?

24 MR. KEARNEY: Objection to the form of  
25 the question.

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2017013008

Sudman - direct

1 A. The method that's used here is a standard  
2 procedure that's often used. The standard  
3 procedure also is to indicate that the answer  
4 followed a probe.

5 Q. How would that be reflected in any  
6 tabular results of such a study?

7 MR. KEARNEY: Objection to the form of  
8 the question.

9 A. My preference would be to show separately  
10 the people who answered the question before the  
11 probe and then those who answered it after the  
12 probe.

13 Q. Why is that?

14 A. You can always then add them up but then you  
15 would have the additional information of the  
16 people who answered with a probe.

17 Q. How is that information, specifically  
18 in regard to this question, helpful?

19 MR. KEARNEY: Objection to the form of  
20 the question.

21 A. It depends on the purpose of the survey.

22 Q. If I wanted to know what people's  
23 beliefs were with regard to the risk of developing  
24 lung cancer from cigarette smoking, would it be  
25 helpful to break the responses down into pre-probe

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2017013009

Sudman - direct

1 and post-probe?

2 MR. KEARNEY: What do you mean by  
3 helpful?

4 Q. Helpful in any manner.

5 A. Possibly. Depending again on the purpose of  
6 the survey, it might be useful to do that.

7 Q. In what manner would it be useful?

8 A. It depends on what purposes you have.

9 Q. My purpose is to ascertain what  
10 people's beliefs are with respect to cigarette  
11 smoking and disease.

12 A. Why?

13 Q. Why is that important?

14 A. Simply to state it -- I guess I'm not able  
15 to answer the question?

16 Q. To see what their level of awareness  
17 is.

18 MR. KEARNEY: I object to the form of  
19 the question. Now you are changing the whole  
20 thing.

21 MR. EDELL: Now I'm confusing the  
22 whole thing.

23 A. Let's start again.

24 Q. For the purposes of litigation,  
25 specifically this litigation, I want to know what

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2017013010

Sudman - direct

1 people's beliefs are regarding cigarette smoking  
2 and disease. Would it be helpful to break up the  
3 responses to question three by identifying which  
4 responses followed the probe?

5 MR. KEARNEY: Objection to the form of  
6 the question.

7 A. I don't know.

8 Q. Under what circumstances would it be  
9 helpful to break up the responses by listing those  
10 responses before the probe and those after?

11 MR. KEARNEY: Objection to the form of  
12 the question.

13 MR. EDELL: Now I'm sure we won't get  
14 an answer.

15 Q. But go ahead.

16 A. I guess I'm not going to be able to answer  
17 that. I guess my sense is that there are some  
18 situations where it would be useful to split these  
19 into two parts but again I would have to have the  
20 specifics and then make a decision and sometimes I  
21 might not be able to make the decision as to  
22 whether it was or wasn't useful.

23 Q. What other specifics would you need in  
24 order to answer that question in the context of  
25 this question?

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2017013011

Sudman - direct

1 A. Again, it's the purpose of the survey.

2 Q. To see whether or not people had to be  
3 warned about the health hazards.

4 A. But again, that's a general enough statement  
5 so that -- sitting here right now, I guess I'm not  
6 able to answer that.

7 Q. Is there a difference, sir, between a  
8 respondent answering question number three before  
9 the probe and after the probe with respect to the  
10 extent of their knowledge regarding the risk of  
11 developing lung cancer?

12 A. I don't know. Without having done this, I  
13 don't know.

14 Q. What would you have to look at in  
15 order to make that determination?

16 A. The data.

17 Q. In other words, you'd have to look at  
18 the results of the survey?

19 A. Or other surveys where this question had  
20 been used or something of this kind.

21 Q. What if you were devising the survey,  
22 sir? If somebody came to you and said look, I've  
23 got this questionnaire and I want a second  
24 opinion, you are an expert on survey research,  
25 what do you think of this questionnaire?

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2017013012

Sudman - direct

1 A. The standard method we use is to pretest.

2 Q. So you wouldn't have any comments  
3 regarding this questionnaire until you pretest  
4 it. Is that correct?

5 A. I might have some comments.

6 Q. Let's assume that we didn't get to the  
7 point of pretesting it. Would you have any  
8 comments with respect to question number three?

9 MR. KEARNEY: Comments about what? I  
10 object to the form of the question.

11 Q. With regard to the question itself  
12 insofar as the issue of obtaining what knowledge  
13 people had concerning cigarette smoking and the  
14 risks of developing disease.

15 A. Again, assuming that I knew what the purpose  
16 was, I might or might not have comments.

17 Q. I thought I just told you what the  
18 purpose was.

19 MR. KEARNEY: You keep changing the  
20 hypothetical.

21 MR. EDELL: Let's make it real easy.

22 Q. The purpose of conducting the study is  
23 to ascertain the level of knowledge concerning  
24 cigarette smoking and the risks of developing lung  
25 cancer. That's the purpose of the study. I want

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2017013013

Sudman - direct

1 to find that out. I have someone who prepares  
2 question number three. Do you think that it would  
3 be important to differentiate between pre- and  
4 post-probe responses?

5 A. Again, although you obviously think that now  
6 you expressed fully the purpose of the study, it's  
7 still a study which is still fuzzy in my mind. I  
8 don't know why it's being done and in that case,  
9 my answer is possibly it might be important to  
10 differentiate and it may not be important to  
11 differentiate.

12 Q. Depending upon what?

13 A. Depending upon previous knowledge. Has this  
14 question been used before?

15 Q. Never been used before.

16 A. In that case, certainly I would want to  
17 pre-test it and you are asking for a judgment  
18 before a pre-test?

19 Q. Yes.

20 A. I guess I'll defer my judgment until after I  
21 see some pretest results.

22 Q. What would you look at in the pretest  
23 results to determine whether or not it should be  
24 broken down into pre- and post-probe responses?

25 A. Is it the case that many people say don't

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2017013014

Sudman - direct

1 know? If it turns out that virtually no one says  
2 don't know, that would be one answer. If many  
3 people do, that might be another.

4 Q. How would you know whether or not  
5 someone said I don't know?

6 A. You would want, you think in the pretest, to  
7 get pre- and post-measures.

8 Q. Why, sir?

9 A. I thought I just answered that.

10 Q. I don't think you did, respectfully.

11 A. So that one could see how many people had  
12 said don't know.

13 Q. From this questionnaire, there is no  
14 place to record don't know, is there, sir?

15 MR. KEARNEY: Objection to the form of  
16 the question.

17 A. An X marked by a probe would be an  
18 indication of that.

19 Q. But if the interviewer was not given  
20 instructions to differentiate between a response  
21 which was pre- and post-probe on this  
22 questionnaire, you wouldn't be able to look at the  
23 pretest results and make any decisions with regard  
24 to whether it would be helpful to break it up or  
25 not. Isn't that right?

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2017013015

Sudman - direct

1 A. You are setting up the rules.

2 Q. Right. Assuming that is so.

3 A. If the interviewer were told not to do what  
4 is normally done, then you might get the result  
5 that you expect.

6 Q. How does an interviewer know to  
7 differentiate between pre- and post-probe  
8 responses?

9 A. It's part of standard training at our shop.

10 Q. You would expect a pretest to identify  
11 pre- and post-probe responses. Is that correct?

12 MR. KEARNEY: Objection. You mean in  
13 all cases?

14 MR. EDELL: Normally.

15 MR. KEARNEY: Object to the form of  
16 the question.

17 A. I would expect that these answers, that a  
18 pretest would demonstrate what the answers are to  
19 this question, yes.

20 Q. Both pre-probe and post-probe.  
21 Correct?

22 MR. KEARNEY: Objection to the form of  
23 the question.

24 A. If it were done? If the standard procedures  
25 were followed, yes.

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2017013016

Sudman - direct

1 Q. It would be standard procedure at  
2 least according to you for there to be a pre-probe  
3 and post-probe differentiation with regard to the  
4 responses. Is that correct? In the pretest.

5 A. I don't know whether it would be standard or  
6 not. I would do it.

7 Q. Why would you do it?

8 A. I think I've answered that question but let  
9 me answer it again. So that one could see how  
10 many had been answered pre-probe and how many had  
11 been answered post-probe.

12 Q. Why is that important?

13 A. It may not be important.

14 Q. But why may it be important?

15 A. You might want to see whether or not the  
16 probe is necessary. I guess it's a little bit, it  
17 may or may not be important but it's just a useful  
18 thing to check out as part of the understanding of  
19 the question.

20 Q. What if the overwhelming number of  
21 responses were post-probe as opposed to  
22 pre-probe? What would that reflect in regard to  
23 this question?

24 MR. KEARNEY: Objection to the form of  
25 the question.

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2017013017

Sudman - direct

1 A. It would depend on what the answers are  
2 pre-probe. I guess I don't know the answer to  
3 that.

4 Q. The only answer pre-probe would be  
5 don't know. Right? On question three? If they  
6 were to answer a post-probe question.

7 A. Is everyone answering don't know?

8 Q. I'm saying 50 percent of the people  
9 who are interviewed say don't know and they then  
10 go on to the probe question as to what their best  
11 guess was. Okay?

12 A. All right.

13 Q. Of what significance would that be  
14 with regard to this question?

15 A. It would indicate that a very substantial  
16 fraction of people don't know or say they don't  
17 know when asked the question.

18 Q. Were you aware that there was a survey  
19 conducted by Audits & Surveys with regard to this  
20 litigation?

21 A. Yes.

22 Q. When did you become aware of that?

23 A. Sometime in the past month.

24 Q. Did you ever see a questionnaire like  
25 Needle Exhibit 1 prior to today?

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2017013018

Sudman - direct

1 A. I don't remember having seen it.

2 Q. Did you see the questionnaires used by  
3 Audits & Surveys?

4 A. Pardon me?

5 Q. Did you see the questionnaire used by  
6 Audits & Surveys with regard to the survey that  
7 you understand they performed in this litigation?

8 A. Before today.

9 Q. Before today.

10 A. No, I don't remember having seen it.

11 Q. What, if anything, did you see with  
12 regard to the survey performed by Audits & Surveys  
13 concerning work that they performed in this  
14 litigation?

15 A. I don't think I saw anything.

16 Q. What were you advised concerning such  
17 surveys performed by Audits & Surveys?

18 A. I was told that such a survey existed.

19 Q. Did you ask for any information  
20 regarding the survey?

21 A. I have been looking at so many surveys that  
22 I really can't remember this specific one apart  
23 from all these others.

24 Q. Other than a survey performed by  
25 Audits & Surveys, are you aware of any other

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2017013019

Sudman - direct

1 research survey performed specifically with regard  
2 to this litigation?

3 A. No.

4 Q. Did you review Needle Exhibit 10 for  
5 identification?

6 A. (Examining document.) I think I did see  
7 this at some point.

8 Q. When?

9 A. Sometime in the last several weeks.

10 Q. Did you see it yesterday or the day  
11 before?

12 A. No.

13 Q. Do you remember the context in which  
14 you reviewed that?

15 A. It was at a meeting with the attorneys for  
16 Webster & Sheffield.

17 Q. When did that meeting occur?

18 A. I think I've answered that.

19 Q. In the last several weeks?

20 A. Yes.

21 Q. How many times did you meet with  
22 attorneys for Webster & Sheffield in preparation  
23 for this deposition in the last several weeks?

24 A. Three times.

25 Q. Where?

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2017013020

Sudman - direct

1 A. Here in New York.

2 Q. Did you discuss with them the validity  
3 of the results reflected in Needle Exhibit 10?

4 A. I think my comment was that in looking at  
5 this briefly, the results seem to be consistent  
6 with other surveys that I had seen conducted.

7 Q. Which of the surveys that you reviewed  
8 in the context of formulating your opinions in  
9 this case reflected people's knowledge regarding  
10 the health hazards associated with cigarette  
11 smoking?

12 A. I'm not going to be perfect on my memory,  
13 but as I remember it, the Gallup studies related  
14 to knowledge, the studies done by H&W related to  
15 knowledge, those done by Roper for the Tobacco  
16 Institute my memory tells me related to knowledge,  
17 the studies done by the FTC, and I guess this one  
18 have something to do with knowledge.

19 Q. What was the the purpose of the Gallup  
20 surveys which reflected people's knowledge  
21 regarding the risks of cigarette smoking?

22 A. Are you asking me what the purpose of Gallup  
23 polls are?

24 Q. You told me before how important it is  
25 to understand the purpose or intent of a study and

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2017013021

Sudman - direct

1 I'm trying to find out what was the purpose or  
2 intent of the Gallup polls with regard to the  
3 issue of knowledge of the health hazards of  
4 cigarette smoking.

5 MR. KEARNEY: Object to the form of  
6 the question.

7 A. The purpose of the Gallup polls is to  
8 provide information to all the subscribers of the  
9 Gallup service that they can then print in their  
10 newspapers about issues of public interest.

11 Q. How do you determine whether or not  
12 the questionnaires are or are not appropriate for  
13 the intended purpose of the study, specifically  
14 with regard to Gallup, if you don't know the  
15 specific purpose of the study?

16 MR. KEARNEY: Objection to the form of  
17 the question.

18 A. When you say you, you mean how do I?

19 Q. Yes, you.

20 A. Well, in general there are a variety of  
21 things. First Gallup has a long-term reputation  
22 of providing useful, reliable information to the  
23 American public on a whole series of public  
24 issues. The whole thrust of their work is to  
25 present data that are reliable and accurate. In

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2017013022

Sudman - direct

1 presenting this data as far as I can tell, they  
2 have no axes to grind. They have a long-term  
3 reputation for testing questionnaires. They  
4 always do careful pretest and test question  
5 wording. My sense is in general, unless there's  
6 something -- I won't say every Gallup question  
7 that's ever been asked is perfect but in general  
8 the Gallup questions are highly regarded.

9 MR. KEARNEY: When you are at a  
10 convenient breaking point soon, since it appears  
11 to be close to our luncheon break.

12 MR. EDELL: Sure.

13 Q. Assuming that you saw question number  
14 three on a Gallup poll, number three of Needle  
15 Exhibit 1, and understanding the purpose of Gallup  
16 polls, would you have any opinions with respect to  
17 the question and whether or not it should have  
18 been broken down into two separate parts, both  
19 pre-probe and post-probe?

20 MR. KEARNEY: Objection to the form of  
21 the question.

22 A. As far as I know, I don't remember Gallup  
23 having asked this.

24 Q. It's a hypothetical question, sir.

25 A. You are saying if Gallup did ask it, what

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2017013023

Sudman - direct

1 would I think of it?

2 Q. Yes.

3 A. I don't know.

4 Q. What would you have to know in order  
5 to formulate an opinion as to what you would think  
6 of that question number three and whether it  
7 should have been broken down into two questions,  
8 both pre- and post-probe responses?

9 A. You are asking me a hypothetical question.  
10 I haven't thought about it in advance. I don't  
11 have an opinion on it.

12 Q. How long would it take you to  
13 formulate an opinion, sir?

14 A. If Gallup asked the question and I examined  
15 the question, I might or might not have an opinion  
16 at that time. As of now, I don't have an opinion  
17 on it.

18 Q. I want you to assume that the question  
19 was asked by Gallup and I want you to assume that  
20 you read the question.

21 MR. KEARNEY: Objection. Asked and  
22 answered.

23 A. I don't have an opinion on it.

24 Q. I would like for you to formulate an  
25 opinion, sir. Take a look at the question, -

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2017013024

Sudman - direct

1 assuming that hypothetical, and give me an  
2 opinion.

3 MR. KEARNEY: Objection. Asked and  
4 answered.

5 A. I don't feel qualified sitting here trying  
6 to imagine how I would think if Gallup had asked  
7 this question. I guess my imagination fails me  
8 and I can't answer the question.

9 MR. EDELL: Let's break for lunch.  
10 (Luncheon recess.)

11 A F T E R N O O N S E S S I O N.

12 Q. Professor Sudman, what is your  
13 definition of belief in the context of your use of  
14 that term in this case?

15 MR. KEARNEY: Are you referring to the  
16 expert report?

17 MR. EDELL: Wherever he uses it.

18 MR. KEARNEY: Why don't you show him  
19 the expert report. Wouldn't that be clearer  
20 instead of saying wherever he uses belief?

21 MR. EDELL: He has used those terms  
22 during the course of the deposition. Am I going  
23 to show him other portions of the deposition where  
24 he distinguished between them.

25 MR. KEARNEY: Just trying to be

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2017013025

Sudman - direct

1 helpful. Go ahead.

2 Q. Can you give us your definition of  
3 belief in the context of your use of it as an  
4 expert in survey research?

5 A. As I'm using the term, it refers to a view  
6 that one holds about a characteristic of a person  
7 or a product either in general or for some  
8 specific attribute of that person or product.

9 Q. How are beliefs formed?

10 A. I'm not an expert in belief formation.

11 Q. Does that mean you don't know?

12 MR. KEARNEY: Objection to the form of  
13 the question.

14 A. Do you want my expert opinion on belief  
15 formation? I don't have an expert opinion on  
16 belief formation.

17 Q. What is your definition of awareness  
18 in the context of your use of that term as an  
19 expert in survey research?

20 A. By awareness, I operationalize the term in  
21 terms of people having first of all having heard  
22 or seen about a person or product or issue and  
23 then having talked about that person, product or  
24 issue with someone else, made up their mind about  
25 what they think about the person, product or issue

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2017013026

Sudman - direct

1 or its dimensions prior to the time that the  
2 question is asked.

3 MR. EDELL: Could you read that back  
4 to me, please.

5 (Answer read.)

6 Q. So it's a multistage process  
7 awareness, sir?

8 MR. KEARNEY: Objection to the form of  
9 the question.

10 Q. Heard or seen about it and talked  
11 about it, then make up their mind. Is that  
12 correct?

13 A. Some of these can go on simultaneously.

14 Q. But for the purpose of your definition  
15 of awareness, it's a three-step process regardless  
16 of whether or not it can occur simultaneously?

17 A. I haven't operationalized it in terms of  
18 steps. I've operationalized it in terms of  
19 intensity of awareness.

20 Q. Let's take a look at Needle Exhibit 1  
21 for identification, sir. Take a look at question  
22 two.

23 A. (Examining document.)

24 Q. Does that question seek to elicit the  
25 respondent's awareness regarding those four

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Sudman - direct

1 statements?

2 A. It appears that this is what it's trying to  
3 do. It's trying to elicit awareness.

4 Q. Would a response to question number  
5 two reflect whether or not a respondent has made  
6 up his or her mind with respect to any of those  
7 statements?

8 A. I don't think so.

9 Q. Would an answer to question number two  
10 reflect whether or not someone had talked about  
11 any of those four statements?

12 A. No. Except indirectly. It says which of  
13 the following ideas have you heard about, and one  
14 of the ways of hearing is by talking with someone  
15 so it's not, it's a possible indirect measure but  
16 not a direct measure.

17 Q. So that question only would elicit a  
18 certain portion of that information which you have  
19 identified as being encompassed by the term  
20 awareness. Is that correct?

21 A. My definition, yes.

22 Q. Is your definition of awareness the  
23 definition commonly used by experts in the field  
24 of survey research?

25 A. I don't know. It's my working definition.

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2017013028

Sudman - direct

1 I don't know what others use. There's probably  
2 some variability in definition of awareness.

3 Q. Do you know whether or not your  
4 definition of awareness is one commonly accepted  
5 by members of your profession?

6 A. I don't know the answer to that.

7 Q. What is your definition of attitude in  
8 the context of survey research?

9 A. Well, I'm just trying to think whether prior  
10 to your asking this question I had ever defined  
11 the term attitude. I think maybe I can better  
12 talk about some of the characteristics of an  
13 attitude rather than defining it because I really  
14 haven't in my mind defined it.

15 Q. You have no definition in the context  
16 of survey research of the term attitude. Is that  
17 correct?

18 A. I have not defined the term.

19 Q. Does it have any meaning in the  
20 context of survey research?

21 A. I believe it does.

22 Q. What's its meaning?

23 A. Again, it's my sense that there's a good  
24 deal of uncertainty about the use of that word and  
25 different people may use it in different ways, so

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2017013029

Sudman - direct

1 I can only tell you what it means to me.

2 Q. What is that, sir?

3 A. An attitude is something which has been  
4 formed over a period of time, is not simply a  
5 response that occurs when a person is asked a  
6 question but is something that had been in that  
7 person's mind earlier and it's a feeling about a  
8 person, product or thing which may be possible,  
9 that is, good feelings about something or good  
10 feelings about something or feelings of fright, a  
11 wide range of attitudes towards a person, product  
12 or issue.

13 Q. How are attitudes formed?

14 A. I'm not an expert on attitude formation.

15 Q. Does attitude formation have anything  
16 to do with the field of consumer behavior?

17 MR. KEARNEY: Objection to the form of  
18 the question.

19 A. Does attitude formation have anything to do  
20 with the field of consumer behavior? I'm going to  
21 pass on that one, too. Attitudes are part of  
22 consumer behavior. Attitude formation may or may  
23 not be.

24 Q. Depending upon what or you just don't  
25 know?

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2017013030

Sudman - direct

1 MR. KEARNEY: Objection to the form of  
2 the question.

3 A. Depending on a wide range of things and  
4 especially whether the behavior is consumer  
5 behavior.

6 Q. If we are talking about a consumer's  
7 attitude with respect to a product, does the field  
8 of consumer behavior relate in any way to attitude  
9 formation?

10 MR. KEARNEY: Objection to the form of  
11 the question. May I please have it read back.

12 (Question read.)

13 A. It's not an area in which I have any  
14 expertise. I guess I just don't know.

15 Q. If we are concerned with a consumer's  
16 beliefs with respect to a particular product, is  
17 the formation of those beliefs related in any way  
18 to the field of consumer behavior?

19 MR. KEARNEY: Objection to the form of  
20 the question.

21 A. I don't have any expertise on that question.

22 Q. Were you furnished with any public  
23 relations documents, any of the cigarette  
24 manufacturers' public relations documents?

25 A. I'm not sure what you mean. Do you have

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2017013031

Sudman - direct

1 anything you want to show me? I'm not sure what  
2 you mean by public relations document.

3 Q. Did you see any proposals with respect  
4 to public relations?

5 A. Proposals?

6 Q. Proposals.

7 A. From whom to whom?

8 Q. Hill & Knowlton.

9 A. No.

10 Q. Did you see any internal public  
11 relations proposals or reports of the Tobacco  
12 Institute?

13 A. You mean from the Tobacco Institute to  
14 somebody else?

15 Q. It could be an internal document from  
16 someone within the Tobacco Institute, a document  
17 generated by the Tobacco Institute and sent to one  
18 of its members.

19 A. No.

20 Q. Did you see any motivational research  
21 conducted by any one of the cigarette  
22 manufacturers or someone hired to perform such  
23 research on their behalf?

24 A. Will you tell me what you mean by  
25 motivational research there?

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2017013032

Sudman - direct

1 Q. Did you ever hear of the term  
2 motivational research?

3 A. Yes.

4 Q. Is it a term that's commonly used in  
5 marketing?

6 A. I don't have an opinion on the term  
7 commonly. It's a term that has been used. I just  
8 don't know how common.

9 Q. What's your definition of motivational  
10 research?

11 A. Motivational research is research which  
12 involves doing depth interviews with respondents  
13 using psychological theories.

14 Q. Did you see any such research in this  
15 case?

16 A. I saw no studies that were specifically  
17 labeled motivational research.

18 Q. Did you see any motivational research  
19 studies, sir?

20 A. I saw studies that had been conducted by  
21 Roper for Philip Morris which by some definitions  
22 might be in that category.

23 Q. By your definition would the surveys  
24 that you saw performed by the Roper organization  
25 for Philip Morris be considered motivational

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2017013033

Sudman - direct

1 research?

2 A. I didn't make that judgment. I'm not an  
3 expert on motivational research and until you've  
4 asked me the question right now, the thought never  
5 occurred to me whether it was or wasn't.

6 Q. You don't have an opinion in regard to  
7 whether the surveys were or were not motivational  
8 research. Is that correct?

9 A. I do not as of now, as of this minute. If  
10 you want to show me one and give me a chance to  
11 examine it, I'll think about it but I certainly  
12 have not formed an opinion, no.

13 Q. Did you see any internal marketing  
14 documents of any of the cigarette manufacturers?

15 A. Again, would you help me out and tell me  
16 what you mean by that?

17 Q. Do you know what a marketing survey  
18 is, sir?

19 A. Yes.

20 Q. What is a marketing survey?

21 A. A marketing survey is a survey which has  
22 been conducted in regard to marketing of a  
23 specific product or brand.

24 Q. Did you see any such surveys performed  
25 by or at the request of any of the cigarette

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2017013034

Sudman - direct

1 manufacturers in this case?

2 A. Again I think the Roper studies for Philip  
3 Morris might fall into that category.

4 Q. Other than the Roper studies, did you  
5 see any such marketing surveys?

6 A. None that I can remember as of now.

7 Q. Did you see any results of any focus  
8 groups?

9 A. Conducted by whom?

10 Q. By anybody.

11 A. I believe there was a focus group which was  
12 conducted for the Federal Trade Commission that  
13 related to warnings on cigarette packages that I  
14 did look at.

15 Q. Was that the one performed by Burke?

16 A. I can't remember right now who conducted it.

17 Q. Other than that, did you see any other  
18 focus group studies?

19 A. I don't remember any others at this time.

20 MR. EDSELL: Would you mark this,  
21 please.

22 (Sudman Exhibit 3 marked for  
23 identification.)

24 Q. Would you tell us what Sudman 3 is.

25 A. (Examining document.) There is no simple

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Sudman - direct

1 way to describe this document in its totality.  
2 It's a series of notes on separate surveys that I  
3 took as I examined them. We can go through and I  
4 can talk about the separate ones but it's not a  
5 single collection, all related to one thing.

6 Q. Other than Sudman 2 and Sudman 3, do  
7 you have any other notes with respect to your work  
8 in the Palmer and/or the Cipollone case? Sudman 1  
9 also has some of your notes. I'm sorry.

10 A. I've tried to put them all together as I had  
11 them available. In going through right now, I  
12 won't swear there's not a page missing but as far  
13 as I know, this is the collection.

14 Q. How did you decide what questions to  
15 include in your notes which have been marked as  
16 Sudman 3?

17 A. I guess, I'm trying to reconstruct this now,  
18 the documents which I examined obviously cover  
19 many hundreds of pages and I was trying to extract  
20 from those documents information which I thought  
21 could conceivably at some point in the future be  
22 relevant.

23 Q. But why these questions as opposed to  
24 the many other questions that are contained in  
25 these surveys?

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2017013036

Sudman - direct

1 MR. KEARNEY: Objection. Asked and  
2 answered. You can answer the question.

3 A. I made my judgment. I don't have any deep  
4 other reason. I looked at the question, asked  
5 myself could this be useful and if so, I recorded  
6 it. If I thought it wasn't, I didn't. I still  
7 have the documents. I can go back. I was trying  
8 to get myself some idea of what was in them.

9 Q. What criteria did you employ in  
10 recording the questions and responses that appear  
11 in these notes which we marked as Sudman 3?

12 A. My judgment. I think I've answered the  
13 question. You asked me and I answered it twice, I  
14 think. I'll answer it again. I looked to see  
15 what I thought might be useful and recorded it.

16 Q. What criteria did you use in  
17 determining whether or not a question might be  
18 useful or not?

19 MR. KEARNEY: Objection. Asked and  
20 answered.

21 A. Basically as of today, I cannot say what --  
22 I looked at the question, made a decision to  
23 record it or not and recorded it.

24 Q. Let's take a look at the first page on  
25 Sudman Exhibit 3, sir. What does the information

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2017013037

Sudman - direct

1 in response to the question which you have written  
2 on this page reflect? Does it reflect beliefs,  
3 attitudes, awareness and/or knowledge?

4 MR. KEARNEY: Objection to the form of  
5 the question.

6 A. Does it reflect belief? Yes. Does it  
7 reflect an attitude? Yes. Does it measure  
8 awareness in some sense? Yes. Does it reflect  
9 knowledge? In this case I think the answer is  
10 yes.

11 Q. Does the data contained on the first  
12 page of Sudman 3 reflect that 34.5 percent of all  
13 current smokers in 1964 thought that the chances  
14 of getting lung cancer were the same for people  
15 who smoked and people who did not smoke?

16 A. The first three lines refer to men.

17 Q. What did it reflect with respect to  
18 the beliefs of women who smoked in 1964?

19 MR. KEARNEY: Objection to the form of  
20 the question.

21 A. The question reads: "Do you think the  
22 chances of getting lung cancer are the same for  
23 people who don't smoke cigarettes as they are for  
24 people who do smoke cigarettes?" You asked me  
25 about women who are current smokers?

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2017013038

Sudman - direct

1 Q. I asked you what the data on Sudman 3,  
2 the first page specifically, reflected with  
3 respect to women who smoked and their beliefs  
4 regarding the --

5 A. Would you clarify for me what you mean by  
6 who smoked? That could mean women who are smoking  
7 now, which would be current smokers, or women who  
8 used to smoke but are no longer smokers who would  
9 be former smokers?

10 Q. Sure. Can you tell me, sir, what  
11 beliefs women who were smoking in 1964 had with  
12 respect to their chances of getting lung cancer as  
13 opposed to what they perceived people's chances of  
14 developing lung cancer who didn't smoke?

15 A. That's not the question that's being asked  
16 here. It doesn't ask about their chance. It  
17 says, "Do you think their chance of getting lung  
18 cancer is the same for people who don't smoke  
19 cigarettes as they are for people who do smoke?"  
20 It's a general question. For women who currently  
21 smoke, 57.1 percent say a smoker is more likely,  
22 38 percent say the chances are the same, a half of  
23 one percent say that a non-smoker is more likely  
24 and 4.4 percent say they don't know.

25 Q. So 38 percent of current smokers in

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2017013039

Sudman - direct

1 1964 thought that the chances of getting lung  
2 cancer were the same for people who didn't smoke  
3 as they were for people who smoked?

4 MR. KEARNEY: Objection to the form of  
5 the question.

6 Q. Is that correct?

7 A. That's correct, and 57 percent thought that  
8 smokers were more likely.

9 (Inaudible conversation between  
10 witness and Mr. Kearney.)

11 THE WITNESS: Could I hear that last  
12 question again, please.

13 MR. EDELL: Now that Mr. Kearney has  
14 whispered in your ear?

15 MR. KEARNEY: Yes. I said that I  
16 thought from reading this that the answer was  
17 incorrect because you changed the predicate of  
18 that very last question, Marc -- I don't know  
19 whether you did it purposefully or not -- from  
20 women to all smokers and I want to clarify the  
21 record.

22 MR. EDELL: If I did, I did so by  
23 mistake and if you want to clarify it, you could  
24 have asked me and I would have been glad to  
25 clarify the record.

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2017013040

Sudman - direct

1 THE WITNESS: My remark related to --  
2 I had heard it. We had been talking about women.  
3 I thought you did mean women. If you did mean  
4 women, those marks related to that answer.

5 Q. Did the beliefs of women with regard  
6 to whether the chances of getting lung cancer were  
7 the same for people who didn't smoke as for people  
8 who smoked change in 1966?

9 A. The data in this, as you see it here,  
10 indicate that the proportion -- are we talking now  
11 about women who are current smokers?

12 Q. Yes.

13 A. Talking about women who are current smokers,  
14 from 1964, in 1964, 57.1 percent of women who are  
15 current smokers believe that smokers are more  
16 likely. In 1966, 63.5 percent. That's a  
17 difference of approximately six percentage  
18 points. The proportion of women who said the  
19 chances are the same dropped from 38.0 to 31.4, a  
20 drop of about a little more than six percentage  
21 points. The proportion who said non-smokers are  
22 more likely remained the same. It was .05 in '64  
23 and .06 and the proportion who did not know was  
24 the same, 4.4 and 4.5.

25 Q. Does the decrease in the percentage of

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Sudman - direct

1 current smokers, current female smokers from 1964  
2 to 1966 regarding the statement that the chances  
3 of getting lung cancer are the same for people who  
4 don't smoke as they are for people who smoke a  
5 reflection of increased knowledge regarding the  
6 health hazards of cigarettes?

7 A. I don't have an opinion on that.

8 Q. Does the percentage of 31.4 percent of  
9 current smokers in 1966 who thought that the  
10 chances of getting lung cancer were the same for  
11 people who don't smoke as for people who smoke  
12 cigarettes reflect their knowledge?

13 MR. KEARNEY: Objection to the form of  
14 the question. You are talking about women in that  
15 question?

16 MR. EDELL: Yes.

17 A. I don't have an opinion on that.

18 Q. What figure on the first page of  
19 Sudman 3 reflects knowledge?

20 A. The last column in a negative way.

21 Q. In what way does the last column  
22 reflect knowledge?

23 A. The last column is don't know. Obviously  
24 people who say they don't know --

25 Q. Don't have knowledge?

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2017013042

Sudman - direct

1 A. They say they don't know, yes.

2 Q. If somebody says I don't know, that  
3 means that they don't have knowledge. Is that  
4 correct?

5 MR. KEARNEY: Objection to the form of  
6 the question.

7 A. If somebody -- are we talking about this  
8 specific question?

9 Q. Yes, this question here.

10 A. The question, "Do you think the chances of  
11 getting lung cancer are the same for people who  
12 don't smoke cigarettes as they are for people who  
13 do smoke cigarettes," when people say they don't  
14 know, that is some indication, it seems to me, of  
15 lack of knowledge.

16 Q. Do any of the other figures on the  
17 first page of Sudman 3 reflect knowledge or lack  
18 thereof?

19 A. Only in total, as compared to the don't  
20 knows, obviously these are people who at least  
21 feel that they have information on this. Are you  
22 saying -- the question is what is knowledge. We  
23 are getting into something which is fairly  
24 philosophical here.

25 Q. In the context of your being an expert

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2017013043

Sudman - direct

1 in survey research, what does the term knowledge  
2 mean?

3 A. Being an expert in survey research doesn't  
4 enable me to pontificate about the meaning of the  
5 term knowledge in its general sense.

6 Q. I thought that you in response to an  
7 earlier question --

8 MR. KEARNEY: Could I take a break for  
9 a minute?

10 MR. EDELL: Sure.

11 (Short break.)

12 Q. I thought you had told us in response  
13 to an earlier question that the information in  
14 response to the question which you wrote on the  
15 first page of Sudman 3 reflected knowledge. Is  
16 that correct?

17 A. Yes.

18 Q. In the context of your response to  
19 that question, how did you define knowledge?

20 A. I looked at the last column, which is the  
21 don't know, which is the complement, and I was  
22 thinking of the don't knows as in some sense  
23 reflecting people's knowledge.

24 Q. So the don't answer, the column the  
25 don't answer is the only information on the first

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2017013044

Sudman - direct

1 page of Sudman 3 which reflects knowledge. Is  
2 that correct?

3 A. The other in total, that is, those in  
4 contradistinction to this last column it seemed to  
5 me reflect knowledge.

6 Q. Reflect knowledge of what, sir?

7 A. Of the question that's asked.

8 Q. What knowledge does it reflect  
9 concerning the question that was asked?

10 A. I don't have an opinion on that.

11 Q. Turn to the next page on Sudman 3.  
12 What information on this page reflects knowledge?

13 A. I don't think this question, this is not a  
14 knowledge question.

15 Q. What on this page reflects beliefs?

16 A. All of the columns reflect beliefs.

17 Q. What beliefs are reflected in the  
18 column no opinion with respect to the question?

19 A. The belief of no opinion.

20 Q. I didn't ask for beliefs. I asked for  
21 knowledge.

22 MR. KEARNEY: I beg your pardon, Mr.  
23 Edell. I asked for beliefs.

24 MR. EDELL: I meant to ask for  
25 knowledge.

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2017013045

Sudman - direct

1 A. Let's start again.

2 Q. My trend of thought was just  
3 interrupted. I apologize. Does the column no  
4 opinion provide us with any information regarding  
5 the issue of awareness?

6 MR. KEARNEY: Objection to the form of  
7 the question.

8 A. For this question, for the question, would  
9 you say that cigarette smoking is definitely,  
10 probably, probably not, definitely not a major  
11 cause of lung cancer?

12 Q. Does it reflect any knowledge on the  
13 part of the people who are, 25.5, current smokers,  
14 13.5, former smokers and 15.5, former smokers. We  
15 are talking about men in 1964.

16 A. The question is does that column reflect --

17 Q. Awareness.

18 A. Awareness?

19 Q. Awareness.

20 A. It reflects no opinion. If you are asking  
21 about the other columns, we can talk about those.

22 Q. I asked about that column, no  
23 opinion. Does it reflect awareness?

24 A. It reflects --

25 MR. KEARNEY: Awareness of what?

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Sudman - direct

1 MR. EDELL: Awareness of anything.

2 A. It reflects no opinion.

3 Q. I know that. That's the name of the  
4 column.

5 A. How do you mean reflect? In what sense do  
6 you mean reflect?

7 Q. The same sense that I asked the  
8 question with regard to the prior question.

9 A. The prior question had to do with a don't  
10 know.

11 Q. I asked you with regard to the first  
12 page of Sudman 3 whether or not awareness was  
13 reflected in the information provided in the  
14 response to the question.

15 MR. KEARNEY: I object to the form of  
16 the question.

17 Q. Now I'm simply asking you whether or  
18 not the column no opinion on the second page of  
19 Sudman 3 reflects any awareness.

20 A. As that question is asked, I can't answer  
21 it.

22 Q. When you look at the results of the  
23 responses to the question on the second page of  
24 Sudman 3 under no opinion, can you make a  
25 determination as to what those respondents'

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2017013047

Sudman - direct

1 awareness was concerning the probability,  
2 possibility of cigarette smoking being a major  
3 cause of lung cancer?

4 THE WITNESS: Would you read the  
5 question back, please.

6 (Question read.)

7 A. As that question is asked, I can't answer  
8 it.

9 Q. Can you tell us from a review of the  
10 column no opinion on the second page of Sudman 3  
11 for identification what, if any, information those  
12 people who responded to the question by indicating  
13 that they had no opinion had with respect to  
14 cigarette smoking and its being a cause of lung  
15 cancer?

16 THE WITNESS: One more time, please.

17 (Question read.)

18 A. As that question is asked, I don't have an  
19 opinion on that.

20 Q. Turn to the next page, please, sir,  
21 the question, "Cigarette smoking is harmful to  
22 health." Is that right?

23 A. Yes.

24 Q. What does that question mean in terms  
25 of "harmful"?

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2017013048

Sudman - direct

1 MR. KEARNEY: Objection to the form of  
2 the question.

3 A. This is the question that the Department of  
4 Health, Education and Welfare asks. That's what  
5 it says.

6 Q. Do you know how the respondents  
7 interpreted "harmful to health" in responding to  
8 this question?

9 A. Do I know how each respondent to this survey  
10 interpreted this word?

11 Q. Yes.

12 A. No.

13 Q. Do you know whether or not they simply  
14 interpreted it to be a cough as opposed to lung  
15 cancer?

16 A. I don't know.

17 Q. By reviewing the responses to this  
18 question, can you make such a determination?

19 MR. KEARNEY: Just to this question?

20 MR. EDELL: Yes.

21 A. The question stands as it stands. People  
22 were given the question and they answered it.

23 Q. Can you tell me, sir, by your review  
24 of any other information that you reviewed in this  
25 case what people understood to be the nature and

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2017013049

Sudman - direct

1 extent of the harmful effects of cigarette  
2 smoking?

3 A. Any such judgment would simply, would be  
4 examining all the data together and it would be  
5 based, it would be a judgment.

6 Q. I asked for that judgment.

7 A. Are you asking me what I think people  
8 meant?

9 Q. Do you want the question read back?

10 A. Yes.

11 (Question read.)

12 A. Do you have time?

13 Q. Let's start with pre-1960. We can  
14 make it even easier. Why don't you give me an  
15 answer to that question for the 1940s.

16 MR. KEARNEY: I'm going to ask you to  
17 put the question again since we have had some  
18 amendments and some rereading of the question.

19 MR. EDELL: He can answer the  
20 question. You are objecting to the form of the  
21 question.

22 MR. KEARNEY: I object to the form.  
23 If you are not going to ask it again, let us  
24 reread the question. I would like to have the  
25 question reread with Marc's amendment.

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2017013050

Sudman - direct

1 MR. EDELL: That's fine.

2 (Question read.)

3 A. I don't have any poll data for the 1940s  
4 that would enable me to answer that.

5 Q. Can you respond to the question for  
6 the 1950s?

7 A. In the 1950s there is poll data on lung  
8 cancer. There is poll data on other diseases like  
9 heart disease and emphysema. I would assume that  
10 the responses to that question included in  
11 people's minds those diseases but there may have  
12 been some who had other diseases in mind and there  
13 may have been some who may have had, I don't know  
14 what. That is, those were issues which were  
15 polled in the fifties and they certainly could  
16 have been included here but I don't have any way  
17 of knowing for sure.

18 Q. Do you have an opinion as to the  
19 nature and extent of people's understanding in the  
20 1950s regarding the harmful effects of cigarette  
21 smoking?

22 MR. KEARNEY: You are not asking about  
23 this question that's in front of him. Is that  
24 right?

25 MR. EDELL: I just asked a straight

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2017013051

Sudman - direct

1 question, Mr. Kearney.

2 MR. KEARNEY: There seems to be some  
3 misunderstanding because the witness always goes  
4 back to the sheet that you've put in front of him  
5 so can I have the question reread again, please.

6 (Question read.)

7 A. You've introduced the word understanding  
8 here that I'm fuzzy about. Do you want to use  
9 some of the other words that we used before like  
10 awareness, beliefs? I'll respond to those.  
11 Understanding is a word that again I think is sort  
12 of fuzzy.

13 Q. You don't understand the word  
14 understanding?

15 A. I don't know what you mean by it. If you  
16 tell me what you mean by it, I'll try to respond.

17 Q. Let me ask you this question, sir. Do  
18 you have an opinion as to the beliefs of smokers  
19 in the 1950s with regard to the harmful effects of  
20 cigarette smoking?

21 A. There are poll data in the fifties which ask  
22 people, smokers and non-smokers, about their  
23 beliefs. I'm willing to report that data.

24 Q. I'm not asking you to report data,  
25 sir. I'm asking you whether or not you have an

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2017013052

Sudman - direct

1 opinion concerning the beliefs of smokers in the  
2 1950s concerning the nature and extent of the  
3 harmful effects of cigarette smoking.

4 A. The question is really incredibly general.  
5 You've used words like nature, extent. It really,  
6 as you've asked that question, I can't answer it.  
7 If you make it more specific, I'll try to answer  
8 it.

9 Q. Do you have an opinion as to the  
10 beliefs of smokers in the 1960s regarding the  
11 nature and extent of the harmful effects of  
12 cigarette smoking?

13 A. As you asked the question, use of the words  
14 nature and extent is more general that I can't  
15 respond to it. If you ask me a more specific  
16 question, I'll try to answer it.

17 Q. Do you have an opinion as to the  
18 beliefs of cigarette smokers in the 1970s  
19 regarding the nature and extent of any harmful  
20 effects of cigarette smoking?

21 MR. KEARNEY: Objection to the form of  
22 the question.

23 THE WITNESS: Would you read the  
24 question again, please.

25 (Question read.)

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2017013053

Sudman - direct

1 A. Again, I don't understand what you mean by  
2 nature and extent. I can't answer the question in  
3 the general form that you've asked it.

4 Q. What were smokers' beliefs with  
5 respect to their chances of developing diseases  
6 from cigarette smoking in the 1950s?

7 A. If we can sort of agree at least to talk  
8 specifically about lung cancer, I can remember the  
9 data.

10 Q. I want to know all diseases.

11 MR. KEARNEY: Including lung cancer?

12 MR. EDELL: If that's a disease that  
13 he wants to discuss.

14 A. Do you want to talk about all diseases  
15 simultaneously?

16 Q. Any way that you think would be  
17 appropriate to respond to the question.

18 A. My memory and, of course, if you want to  
19 give me some data to look at, I'll be glad to, but  
20 my memory tells me that in the fifties of smokers  
21 who had made up their mind, the majority thought  
22 that cigarette smoking was a cause of lung cancer.

23 Q. What about of all smokers?

24 MR. KEARNEY: Are you finished your  
25 answer?

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2017013054

Sudman - direct

1 Q. You paused. If you didn't finish, I'm  
2 sorry.

3 MR. KEARNEY: He did pause. I'm just  
4 asking did you finish your question.

5 A. Of all smokers what? What's the question?

6 Q. What percentage of all smokers in the  
7 1950s believed that cigarette smoking caused lung  
8 cancer?

9 A. I don't have that figure in mind but all  
10 smokers included people who hadn't made up their  
11 minds yet.

12 Q. If a person hadn't made up their mind,  
13 that would be listed as no knowledge?

14 MR. KEARNEY: Objection to the form of  
15 the question. Are you asking about a specific  
16 poll?

17 MR. EDELL: Strike that.

18 Q. If there was a listing for no opinion,  
19 would that show that the smoker did not have any  
20 knowledge concerning cigarette smoking and lung  
21 cancer?

22 A. That doesn't show that, no.

23 Q. Does it show that the smoker had  
24 knowledge concerning cigarette smoking and lung  
25 cancer?

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2017013055

Sudman - direct

1 A. No opinion may or may not indicate  
2 knowledge.

3 Q. What other diseases, sir, do you  
4 believe that smokers were aware of in the 1950s  
5 which were related to cigarette smoking?

6 A. My memory tells me again, subject to  
7 correction by looking at the results, that  
8 emphysema and heart disease among others were  
9 diseases that smokers felt were harmful. Let me  
10 say that again. That smokers felt that smoking  
11 had some impact on.

12 MR. EDELL: Would you read that back,  
13 please.

14 (Answer read.)

15 Q. What percentage of smokers believed  
16 that cigarette smoking resulted in heart disease  
17 in the 1950s?

18 A. I don't have that figure in mind. The data  
19 do exist.

20 Q. Of what significance is the percentage  
21 of undecided cigarette smokers with regard to  
22 their opinion as to whether or not cigarette  
23 smoking causes lung cancer?

24 MR. KEARNEY: Objection to the form of  
25 the question.

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2017013056

Sudman - direct

1 A. Would you rephrase that, please? I can't  
2 understand it as you said it.

3 Q. What interpretations can one draw from  
4 the undecided cigarette smokers with regard to the  
5 question of what they thought concerning cigarette  
6 smoking and its relationship to lung cancer?

7 A. It seems to me the answer is implicit in the  
8 response. They are undecided.

9 Q. Does that suggest that they need more  
10 information?

11 A. I don't have an opinion on that.

12 Q. Did any of the data that you reviewed  
13 in this matter suggest to you that consumers of  
14 cigarettes wanted more information regarding the  
15 health hazards associated with cigarette smoking?

16 A. My memory tells me that in an FTC study,  
17 there was such a question and that some people, my  
18 memory doesn't tell me now whether they were  
19 smokers or non-smokers, said they wanted more  
20 information on cigarette smoking and health.

21 Q. Of what importance is an affirmative  
22 response to the following question: "The general  
23 public knows all it needs to know about the  
24 effects of smoking and health?"

25 MR. KEARNEY: Objection to the form of

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2017013057

Sudman - direct

1 the question.

2 A. I had trouble with that. Can I have it  
3 reread.

4 (Question read.)

5 A. In the absence of knowing the context of  
6 that question, why it was asked, I just don't  
7 know.

8 Q. I show you Use of Tobacco, Practices,  
9 Attitudes and Knowledge and Beliefs, United  
10 States, Fall 1964, spring 1966, which was  
11 furnished to us as one of the surveys that you  
12 reviewed. I direct your attention to page 429,  
13 question 216. Of what significance, and I'll  
14 change back to significance as opposed to  
15 importance --

16 MR. KEARNEY: Let us read the poll  
17 maybe before you put the question.

18 MR. EDELL: Sure.

19 A. (Examining document.) What's the question?

20 Q. Of what significance is the fact that  
21 42 percent of current female smokers strongly  
22 disagreed with that statement?

23 MR. KEARNEY: Objection to the form of  
24 the question.

25 A. The statement stands for itself. It says

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Sudman - direct

1 that 42 percent of women who are current smokers  
2 disagree with that statement. I have not thought  
3 about the significance of this question. I don't  
4 have an opinion on it.

5 Q. Does this question relate in any way  
6 to the issue of beliefs and awareness regarding  
7 cigarette smoking and health?

8 MR. KEARNEY: Objection to the form of  
9 the question.

10 THE WITNESS: Can we hear it again.

11 (Question read.)

12 A. I won't say that it doesn't but sitting here  
13 right now and looking at it, it certainly, it is  
14 not obvious to me how it does, so I guess my  
15 instant response, which is what you want, if  
16 it does, it must be indirect, not direct.

17 Q. Let's turn to page 465. I'll have to  
18 give you the second volume.

19 A. (Examining document.) I read the question.

20 Q. Of what significance is the fact that  
21 56.7 of current female smokers strongly agreed  
22 that there should be more education of the public  
23 about the health risk connected with cigarette  
24 smoking?

25 MR. KEARNEY: Objection to the form of

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2017013059

Sudman - direct

1 the question.

2 A. As of now, I don't see the significance of  
3 that result.

4 Q. What, if any, information does the  
5 response by current female smokers to the  
6 question, "There should be more education of the  
7 public about the health risk connected with  
8 smoking cigarettes" mean in terms of knowledge  
9 about the health hazards associated with cigarette  
10 smoking?

11 MR. KEARNEY: Objection to the form of  
12 the question.

13 A. Whose knowledge?

14 Q. Cigarette smokers' knowledge.

15 A. This question does not ask the person about  
16 whether they think they need more education. It's  
17 a question which asks about the public so there  
18 may be a connection but if so, it's undirect. I  
19 don't see the direct connection at all. I wonder  
20 if we might take a break.

21 MR. EDLL: Sure.

22 MR. KEARNEY: Let's take our afternoon  
23 break.

24 (Short break.)

25 Q. Professor Sudman, you reviewed Dr.

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2017013060

Sudaan - direct

1 Pollay's report?

2 A. I may have seen it. I did not review it to  
3 any extent where I can remember anything of it.

4 Q. Do you have any opinions regarding any  
5 opinions expressed by Dr. Pollay either in his  
6 report or his deposition or in his chronological  
7 notes?

8 MR. KEARNEY: Objection to the form of  
9 the question.

10 A. Can we take those sort of -- I don't think  
11 I've seen what you are talking about.  
12 Deposition? I haven't seen that.

13 Q. That's one of them.

14 A. Chronological notes, I don't know what that  
15 is.

16 Q. That's two.

17 A. And the other is what?

18 Q. His report, his content analysis  
19 report.

20 A. I don't have an opinion on that.

21 Q. Do you have any opinions with respect  
22 to the opinions of Dr. Joel Cohen?

23 MR. KEARNEY: Objection to the form of  
24 the question.

25 A. What opinions?

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2017013061

Sudman - direct

1 Q. Any opinions.

2 MR. KEARNEY: Object to the form of  
3 the question.

4 A. That question has -- would you ask me a  
5 question that maybe -- that question sort of  
6 assumes that Joel Cohen has opinions and that I'm  
7 aware of those opinions.

8 Q. I know it does assume that because I  
9 was furnished with a report by the defendants  
10 which states that you may respond to testimony of  
11 Dr. Cohen and Dr. Follay and I just want to know  
12 if you have any opinions as we sit here today with  
13 regard to any opinions expressed by Dr. Cohen in  
14 this matter.

15 MR. KEARNEY: Object to the form of  
16 the question.

17 A. I have not seen any of Dr. Cohen's opinions  
18 so in the absence of having seen any of those  
19 opinions, as of today, I have no opinions.

20 Q. You know Dr. Cohen, don't you?

21 A. Yes, I do.

22 Q. Do you have an opinion with respect to  
23 his expertise in the area of consumer behavior?

24 A. Yes.

25 Q. What is that opinion?

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2017013062

Sudman - direct

1 A. He is an expert in consumer behavior,  
2 especially in those things that he has studied.

3 Q. In reviewing the opinion surveys that  
4 you reviewed in this and in the Palmer matter, did  
5 you formulate any opinions with regard to any  
6 inadequacies in any of those studies?

7 A. We would have to take them separately. Do  
8 you want me to do that?

9 Q. However you want.

10 A. Or answer the question yes or no.

11 Q. One, you have to tell me whether you  
12 formulated any opinions and two, we can go through  
13 any and all of the opinion surveys that you feel  
14 are inadequate in any form.

15 A. In general I thought that the national  
16 surveys I looked at were generally adequate and  
17 both the sampling and questionnaire design seemed  
18 appropriate for what was being done. However, I  
19 think I pointed out earlier that I discarded from  
20 my analyses the local studies since I didn't think  
21 one could generalize from those to the United  
22 States. I also discarded some studies that were  
23 done of very special populations, students in  
24 classrooms, because again it wasn't clear to me of  
25 what value those would be.

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2017013063

Sudman - direct

1 Q. Sir, does consumer behavior affect  
2 information processing?

3 MR. KEARNEY: Objection to the form of  
4 the question.

5 A. Does consumer behavior --

6 THE WITNESS: Read it back to me,  
7 please.

8 (Question read.)

9 A. As that question is asked, it doesn't make  
10 sense to me. I can't answer it.

11 Q. Does a consumer's use of a product  
12 affect that consumer's information processing  
13 concerning any hazards arising out of the use of  
14 the product?

15 MR. KEARNEY: Objection to the form of  
16 the question.

17 A. We are talking about any consumer, any  
18 product or what?

19 THE WITNESS: Could I hear the  
20 question again, please.

21 (Question read.)

22 A. Let's start off with -- I'm going to try to  
23 respond to that. The question is very, very  
24 multidimensional. The consumer's use of a product  
25 may affect processing of information about that

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2017013064

Sudman - direct

1 product. To that extent, not always but there  
2 have been situations where consumer use has been  
3 found to be related to consumer processing.  
4 Beyond that, I can't answer that question.

5 Q. In your opinion does consumer use of  
6 cigarettes affect the consumer's information  
7 processing with respect to information regarding  
8 health hazards of the use of cigarettes?

9 A. I don't have any information on that.

10 Q. When you say you don't have any  
11 information, you have no opinion? Is that what  
12 you mean?

13 A. I have no opinion on that.

14 Q. You saw in your review of all of the  
15 surveys differences in response to questions  
16 concerning health hazards associated with the use  
17 of cigarettes between current smokers and former  
18 smokers and never smokers. Right?

19 A. Yes.

20 Q. What do you attribute those  
21 differences to?

22 MR. KEARNEY: Objection to the form of  
23 the question.

24 A. The differences obviously might depend on a  
25 whole series of things and it also assumes that

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2017013065

Sudman - direct

1 there are always differences. In some cases in  
2 some of the data I show, I saw there were not  
3 really significant differences but in some cases  
4 there were differences, and where there were  
5 differences, it is possible that those differences  
6 may be due to different demographic  
7 characteristics of smokers and non-smokers or it  
8 may be that some of the differences are due to the  
9 use of the product.

10 Q. Did you see any significant  
11 differences with respect to smokers' versus  
12 non-smokers' beliefs with regard to the health  
13 hazards associated with the use of cigarettes?

14 A. I can't remember right now. Do you want to  
15 help me?

16 Q. I would like to help you. How would  
17 you like me to help you?

18 A. If you show me some data, I'll comment on  
19 it.

20 Q. Take a look at The Use of Tobacco and  
21 tell me whether or not you see any significant  
22 differences --

23 A. You want me to go through all this?

24 Q. Whatever you have to.

25 A. Okay.

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2017013066

Sudman - direct

1 MR. KEARNEY: Let me make this clear.  
2 You want him to go through the volume that's in  
3 front of us, which is approximately 900 pages  
4 that's entitled The Use of Tobacco?

5 MR. EDELL: I don't think that you are  
6 really making it clear, Mr. Kearney. The witness  
7 said could I help him. If it's going to help him  
8 to look at one or two or three or ten or fifty  
9 pages, I don't know. If he tells me he will have  
10 to review the 900 pages to see whether or not  
11 there were any significant differences with regard  
12 to the beliefs of non-smokers and smokers  
13 concerning the health hazards of cigarettes, then  
14 he can tell me that and we know he has to review  
15 all 900 pages.

16 A. I don't recall now where in this document  
17 these tables are, so that it's not obvious to me  
18 howfar I'd have to go before I found a table that  
19 might be responsive.

20 Q. Let's see if we can help you out a  
21 little bit. I can't recall all those questions  
22 myself and maybe we can make it easier if we start  
23 out with the Gallup polls. I show you a copy of a  
24 Gallup poll which was furnished to us by counsel  
25 for the defendants which is a poll which you

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2017013067

Sudman - direct

1 reviewed and relied on in this matter,  
2 specifically page 1500.

3 A. (Examining document.)

4 Q. Do you see the question 54A? Do you  
5 see that on the bottom right-hand corner?

6 A. Yes.

7 Q. What is your opinion? "Do you think  
8 cigarette smoking is one of the causes of cancer  
9 of the lung," do you see that, sir?

10 A. Yes.

11 Q. Do you see where, for cigarette  
12 smokers only, the response under yes was 38  
13 percent?

14 A. Yes.

15 Q. The response for non-smokers was 59  
16 percent?

17 A. Yes.

18 Q. Is that a significant difference, sir?

19 A. I haven't computed that but it certainly  
20 would seem that it was.

21 Q. What in your opinion do you attribute  
22 that difference to?

23 A. There are multiple factors.

24 Q. Please tell us what those factors are  
25 that you attribute the difference in the smokers'

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2017013068

Sudman - direct

1 versus non-smokers' response to the question,  
2 "What is your opinion? Do you think cigarette  
3 smoking is one of the causes of cancer of the  
4 lung?"

5 A. It may be due to demographic variables such  
6 as region of the country, education, race,  
7 gender. These are one set of variables that are  
8 possible. It could also be due to the actual  
9 smoking, the use of the product.

10 Q. Is it your testimony that the Gallup  
11 poll did not take into consideration the variables  
12 of education, race and gender?

13 MR. KEARNEY: Objection to the form of  
14 the question.

15 A. Are you asking me from what's printed here?

16 Q. From your knowledge, sir. You told us  
17 before that the Gallup organization was a  
18 reputable organization and that they are generally  
19 reliable in terms of the questionnaires and the  
20 surveys.

21 A. Yes. What's the question?

22 MR. KEARNEY: Let's have the question  
23 read back.

24 Q. Do you know whether or not they take  
25 into consideration the variables that you

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2017013069

Sudman - direct

1 mentioned such as education, race and gender?

2 A. Tell me what you mean by take into  
3 consideration.

4 Q. Try to account for these variables.

5 MR. KEARNEY: Object to the form.

6 A. Try to account for these variables? How?

7 Q. I don't know. Is there a way that you  
8 people in survey research try to avoid any  
9 confounding that may occur as a result of these  
10 type of variables?

11 A. Well, it is possible if one has sufficient  
12 size samples to use procedures that would take  
13 into account differences in demographics such as  
14 multivariate analysis. I don't know whether this  
15 has been done. It's not here.

16 Q. Do you have an opinion, sir, that the  
17 21 percent difference could be attributable to  
18 variables such as education, race, gender and  
19 geographic location?

20 A. Some of it may be. I don't know how much.

21 Q. You don't know what percentage?

22 A. No, I don't. Let me see if I can locate a  
23 study that may have taken into consideration those  
24 variables that you are concerned with.

25 Q. Do you know whether or not the study

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2017013070

Sudman - direct

1 for HSW was a multivariate study?

2 MR. KEARNEY: Objection to the form of  
3 the question.

4 A. My memory of that study is that it mainly  
5 compared never smoked, people who had given up  
6 smoke and current smokers. I don't remember  
7 whether indeed multivariate analysis was  
8 conducted. Those tables I don't think reflected  
9 that.

10 Q. How would you go about ascertaining  
11 whether it was these variables of geographic  
12 location, education, race, gender as opposed to  
13 use of a product which accounts for the variation  
14 between the responses from smokers and non-smokers  
15 to the question of whether or not cigarette  
16 smoking causes lung cancer?

17 MR. KEARNEY: Objection to the form of  
18 the question.

19 THE WITNESS: Could I hear that again,  
20 please.

21 (Question read.)

22 A. Are we talking about doing a brand new study  
23 or analyzing data from an existing study? There  
24 are various things that one would do under  
25 different circumstances.

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2017013071

Sudman - direct

1 Q. What would you do if you were trying  
2 to make that determination with regard to the  
3 Gallup poll, the question I specifically gave to  
4 you to review in the beginning of this series of  
5 questions?

6 A. If the data were available -- well, one  
7 could do a partial multivariate analysis, limited  
8 of course by the sample size and the availability  
9 of data running the raw data from the study.

10 Q. Did you make any attempt to ascertain  
11 what accounted for the differences in response to  
12 questions concerning the relationship between  
13 cigarette smoking and lung cancer between  
14 cigarette smokers and non-smokers?

15 A. I did not.

16 Q. Do you know whether or not cigarette  
17 smoking is addictive?

18 A. I'm not an expert on addiction.

19 Q. Do you have an opinion as to whether  
20 or not a consumer of an addictive drug would  
21 process information concerning the hazards  
22 relating to that drug differently than non-users  
23 of the drug?

24 MR. KEARNEY: I object to the form of  
25 the question.

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2617013072

Sudman - direct

1 THE WITNESS: Can I hear it again.

2 (Question read.)

3 A. I have no opinion on that.

4 Q. Did you make any determination as to  
5 whether people believed that smoking in moderation  
6 would not result in lung cancer?

7 A. This was not one of the things that I  
8 concentrated on but my memory tells me that one of  
9 the surveys or perhaps a couple in the later  
10 period did ask a question of that kind.

11 Q. Do you recall the results of that  
12 survey, sir?

13 A. I don't, unless you refresh my memory.

14 Q. I'm still trying to find a question  
15 that takes into account all those variables that  
16 you were talking about before.

17 MR. EDELL: Maybe if we took a short  
18 break, I would look at the survey.

19 (Short break.)

20 Q. During the break, I tried to identify  
21 a question in one of the surveys that would help  
22 us understand what, if any, effect the variables  
23 of education, race, gender and demographics might  
24 have on the differences between smoker and  
25 non-smoker responses to the question of whether or

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2017013073

Sudman - direct

1 not cigarette smoking causes lung cancer and I'm  
2 going to direct your attention to page 2213 of the  
3 Gallup poll public opinion, 1935 through 1971,  
4 volume three, 1959 through 1971, and see whether  
5 or not that will help us in trying to determine  
6 what accounts for the differences in the responses  
7 from smokers and non-smokers.

8 A. (Examining document.) The answer is no.  
9 What you see here is analysis variable by  
10 variable, that is, you see age first separately,  
11 then you see education separately and then you see  
12 smoking behavior separately and you don't see, at  
13 least I don't see, the interaction, that is, those  
14 three all taken together, which is what I meant.

15 Q. If you wanted to devise a study that  
16 would help us understand what accounts for the  
17 differences in the responses to the question of  
18 whether or not cigarette smoking may be a cause of  
19 lung cancer between smokers and non-smokers, how  
20 would you devise such a study?

21 MR. KEARNEY: Objection to the form of  
22 the question.

23 A. I would really have to give it a lot of  
24 thought. It's a very important issue. I'm not  
25 sure sitting here instantly I can -- I mean I

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2017013074

Sudman - direct

1 don't design studies sort of like that. I would  
2 have to think about it and respond and it's  
3 getting late in the day and I'm not sure I'm up to  
4 the task of completely thinking this through.

5 MR. KEARNEY: Off the record.

6 (Discussion off the record.)

7 A. It is not the kind of thing that I really  
8 think I could do well in a matter of an hour  
9 even. It's something that would take a long time  
10 to think about but I think it's possible to be  
11 done.

12 Q. Do you know of any such study?

13 A. I'm not aware of any.

14 Q. Sir, I was furnished with an opinion  
15 survey concerning seat belts. What does that have  
16 to do with your opinions in this case?

17 A. It is sometimes the case that people are  
18 confused between knowledge, attitudes and  
19 behavior. In other words, some people seem to  
20 believe that those might be the same thing and I  
21 think that's a very serious error. The notion  
22 that because you don't do something or because you  
23 do something that indicates what you know and  
24 believe strikes me as wrong, and seat belts are a  
25 very, very good illustration of the difference

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2017013075

Sudman - direct

1 between knowledge, attitudes and behavior, between  
2 awareness of the issue, attitudes and behavior.  
3 That is, it is the case that many people, most  
4 people are aware that seat belts save lives and  
5 yet as we know unfortunately less than a quarter  
6 of all people wear seat belts and that's the  
7 reason that's in there.

8 Q. To explain for us the difference  
9 between knowledge, attitude and behavior?

10 A. Yes.

11 Q. Did you do any research to ascertain  
12 what the public's relative knowledge was  
13 concerning the risks of cigarette smoking as  
14 compared to any other activity?

15 MR. KEARNEY: Objection to the form of  
16 the question.

17 A. Did I do any research or did I examine the  
18 polls?

19 MR. EDSELL: Could you read that back,  
20 please.

21 (Question read.)

22 A. This was not one of the things that I looked  
23 at but I seem, my memory tells me there was a  
24 study somewhere that may have asked these  
25 questions or something in that ballpark.

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2017313076

Sudman - direct

1 Q. Mr. Kearney was kind enough to provide  
2 us with some computer runs. Can you tell us what  
3 they are?

4 A. (Examining document.) These are computer  
5 runs for three Gallup polls, 1954, 1969 and 1971.  
6 If you want, I'll go through it page by page.  
7 They each talk about the -- the question is at the  
8 top and then the answers are split by the ways in  
9 which you've seen them, in this document here in  
10 this first case first of all by education, then by  
11 age, then by race and gender, then by city size,  
12 then by region but these are all separate by  
13 those, they are one at a time and to go through  
14 them, the same thing, that was the 1971 study.  
15 The 1969 study is first by education, then by  
16 gender and race, then by region, then by  
17 education, age. These questions now in the 1969  
18 study ask first of all about lung cancer and then  
19 ask about heart disease by region again and age  
20 and gender. The 1954 study asks the question,  
21 "Have you heard cigarettes cause lung cancer," by  
22 education, by age, gender, region of the country,  
23 city size and then the same question, "Do you  
24 think that cigarettes are a cause of lung cancer,"  
25 by education, age, gender, city size, region, so

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2017013077

Sudsan - direct

1 MR. KEARNEY: In what polls?

2 MR. EDELL: In any of the polls.

3 A. Shall we look?

4 Q. Sure.

5 A. So long as we have these three. (Examining  
6 document.) What are the categories you want me to  
7 examine?

8 Q. Grade school versus college, sir.

9 A. All right. Let's see. This is, "Do you  
10 think cigarettes cause lung cancer." The data  
11 here are by no schooling, grades one to six and  
12 grades seven to eight and for the college, it  
13 isn't all together. It's some college and college  
14 graduate. So it's a little difficult to tell. I  
15 would need a couple of more minutes to sort of add  
16 them up and put them together for this.

17 Q. Take your time.

18 A. Okay. (Examining document.) I guess what  
19 really is the situation, because there are  
20 different sample sizes in each of the categories,  
21 in order to sum them up, you'd have to have a hand  
22 calculator or something. Let me look at some of  
23 the other years and see if there's -- it's not  
24 obvious to me looking here. There do appear to be  
25 some differences but it's not clear what they

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2017013078

Sudman - direct

1 are. Maybe in one of the other years they are  
2 clearer. (Examining document.)

3 Q. Do you still have in front of you  
4 volume three, 1959 to 1971 of the Gallup polls,  
5 sir?

6 A. Yes, I think so.

7 Q. Let's take a look at that. Would you  
8 take a look at that?

9 A. This is 1969. Is that what you want?

10 Q. I thought maybe we could resolve it  
11 instead of going through --

12 A. Look, there are --

13 Q. Sir, please take a look at volume  
14 three, 1959 through 1959 of the Gallup poll, page  
15 2213.

16 A. That's what I was looking at.

17 Q. Do you see a difference in response  
18 from individuals with a college education as  
19 opposed to a grade school education with respect  
20 to the question as to whether cigarette smoking in  
21 their opinion was one of the causes of lung  
22 cancer?

23 A. Yes.

24 Q. Is there a significant difference in  
25 the response, sir?

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2017013079

Sudman - direct

1 A. It's a little difficult to tell because I  
2 don't know how many people are in each of those  
3 groups. Let me read you the numbers for the  
4 record. 81 percent of college people, 69 percent  
5 of high school people and 64 percent of grade  
6 school people think that cigarette smoking is one  
7 of the causes of cancer of the lung. Without  
8 knowing the sizes of the sample groups, one isn't  
9 sure but I would suspect that those differences  
10 which are of the order of magnitude of 12 points  
11 between college and high school and 17 points  
12 between college and grade school are likely to be  
13 significant, but without knowing the sample sizes,  
14 I can't be sure.

15 Q. Your experience in reviewing Gallup  
16 surveys is that the Gallup polls would present  
17 information that could not be used in a  
18 comparative form?

19 A. Pardon me?

20 Q. Let me see if I can rephrase it. Do  
21 you think that the Gallup polls would have given  
22 figures, comparative figures, by education if the  
23 figures could not be adequately compared?

24 MR. KEARNEY: Objection to the form of  
25 the question.

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2017313080

Sudman - direct

1 Q. Because of size sample?

2 A. Now, the Gallup data, you asked me before  
3 whether those results are significant.

4 Q. Right.

5 A. Significance, I took it to mean a  
6 statistical significance. Did you mean  
7 statistical significance or not?

8 Q. I did mean it in that context.

9 A. Statistical significance --

10 Q. I think.

11 A. -- would depend. I'm sorry. Did I  
12 interrupt?

13 Q. No, you didn't.

14 A. Statistical significance is a function of  
15 the sample size and the differences between the  
16 groups. Are you asking me whether Gallup ever  
17 presented data which was not statistically  
18 significant? The answer is yes, they might. That  
19 might very well be the case where there are two  
20 groups which are very, very similar and they might  
21 present the data to show that they are similar.

22 Q. Let me ask you this. You reviewed a  
23 significant number of opinion surveys with regard  
24 to the question of what people believed concerning  
25 cigarette smoking and lung cancer, did you not?

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2017013081

Sudman - direct

1 A. Yes.

2 Q. Did you see similar differences  
3 between responses from college educated people as  
4 opposed to grade school educated people with  
5 regard to that issue in other studies in addition  
6 to the one that you have in front of you now?

7 A. My memory tells me that there were  
8 differences by education.

9 Q. What does that suggest to you in terms  
10 of whether the difference is significant or not?

11 A. As I said, if I had to make a speculation, I  
12 would speculate that these are real differences  
13 that one sees here but I just cannot guarantee it  
14 without knowing the size of the groups.

15 Q. What do you attribute the difference  
16 between college educated respondents and grade  
17 school educated respondents insofar as the reason  
18 for their differences in response to the question  
19 as to whether they thought that cigarette smoking  
20 was a cause of lung cancer?

21 A. I don't have any data to enable me to answer  
22 that.

23 Q. Do you have an opinion as to why the  
24 percentage of grade school respondents was less  
25 than college educated respondents with regard to

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2017013082

Sudman - direct

1 the statement that cigarette smoking caused or was  
2 a cause of lung cancer?

3 MR. KEARNEY: Objection to the form of  
4 the question. Do you want to have it reread or  
5 maybe rethink it?

6 MR. EDELL: Maybe I'll try to rethink  
7 it.

8 Q. Do you have an opinion as to why fewer  
9 grade school respondents felt that cigarette  
10 smoking was a cause of lung cancer than college  
11 respondents?

12 MR. KEARNEY: Objection to the form of  
13 the question.

14 A. I thought I had answered that and my answer  
15 is I don't have an opinion.

16 Q. Does the question which appears and  
17 the response to the question on pages 2213 and  
18 2214 of the Gallup poll reflect consumer knowledge  
19 regarding the health hazards of cigarette smoking?

20 A. Maybe that's best answered by my reading you  
21 the question.

22 Q. No. I can read the question and read  
23 the responses, sir.

24 A. Let me just read you the question because I  
25 think the answer is implicit in the question.

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2017013083

Sudman - direct

1 Q. If it's that clear, just answer the  
2 question. Yes or no.

3 MR. KEARNEY: He doesn't have to  
4 answer the question yes or no. You know that, Mr.  
5 Edell.

6 MR. EDELL: He doesn't have to read  
7 the question to me.

8 MR. KEARNEY: If you don't like his  
9 answer, that's your business, but you can't tell  
10 him how to answer the question. Can we have the  
11 question reread and let the witness answer the  
12 question unless you would like to withdraw the  
13 question.

14 MR. EDELL: No. I would like an  
15 answer to the question.

16 (Question read.)

17 A. As the question is asked, it says all  
18 persons in the survey were then asked, what is  
19 your opinion, do you think cigarette smoking is or  
20 is not one of the causes of cancer of the lung, as  
21 it's phrased there, it's an opinion question. I  
22 don't have an opinion on whether or not it's a  
23 knowledge question.

24 Q. When were the earliest survey research  
25 tools available to cigarette manufacturers to

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2617313084

Sudman - direct

1 ascertain the level of awareness or belief of  
2 their consumers with regard to cigarette smoking  
3 and health?

4 A. Could you give me some help? By survey  
5 research tools, what you mean by that?

6 Q. Opinion polls.

7 A. The first opinion polls were conducted in  
8 1935 by George Gallup and Elmo Roper. These were  
9 for newspapers and for Fortune magazine.

10 Q. If a cigarette manufacturer in 1935  
11 wanted to ascertain what the consumers believed  
12 were the hazards of using their product, could  
13 they have done that?

14 MR. FARRISH: Object to the form of  
15 the question.

16 A. I have no idea whether they could or could  
17 not have.

18 Q. Do you have an opinion as to whether  
19 or not cigarette manufacturers in the 1960s could  
20 have conducted research to ascertain whether or  
21 not their consumers believed that cigarette  
22 smoking posed a health hazard?

23 MR. FARRISH: Object to the form of  
24 the question.

25 A. I don't have an opinion on that.

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2017013085

Sudman - direct

1 Q. Do you have an opinion as to whether  
2 or not a cigarette manufacturer could have hired  
3 someone in the 1940s to have conducted opinion  
4 research to ascertain what people believed  
5 concerning the health hazards associated with  
6 cigarette smoking?

7 MR. KEARNEY: Objection to the form of  
8 the question.

9 A. I don't have an opinion on that.

10 Q. Do you know Dexter Needle?

11 A. I think I've heard the name.

12 Q. Do you know what Dexter Needle's  
13 reputation is in the, I'm trying to describe it,  
14 professional community of survey research?

15 A. No, I don't.

16 Q. Do you know a Dr. Goldhaber?

17 A. First name?

18 Q. I don't recall it right now.

19 A. I don't recall knowing anyone by that name.

20 Q. Have you done any work with regard to  
21 opinion research concerning advertising?

22 A. Do you mean as part of my own research?

23 Q. Have you done any research, sir, with  
24 regard to opinion polls concerning advertising?

25 A. No.

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2017013086

Sudman - direct

1 Q. Have you reviewed any work regarding  
2 opinion polls and advertising?

3 A. Yes.

4 Q. What work was that?

5 A. Papers submitted to the Journal of Consumer  
6 Research for publication.

7 Q. What papers were those?

8 A. I would have to go to my files and look.

9 Q. Can opinion research polls be used to  
10 ascertain how advertising is interpreted by people  
11 who see advertising?

12 MR. KEARNEY: Objection to the form of  
13 the question.

14 A. You asked it in a very global sort of a  
15 way. There are procedures that can be adopted  
16 that make it possible to measure perceptions of  
17 ads.

18 Q. Are you aware of any such studies?

19 A. The advertising companies do them  
20 continuously.

21 Q. How do you know that?

22 A. How do I know that?

23 Q. Yes.

24 A. There are organizations which are in  
25 existence to test advertising. I'm aware these

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2017013087

Sudman - direct

1 organizations exist. I know some of the people  
2 who run such organizations and I know that they do  
3 advertising testing.

4 Q. Have you ever seen the results of any  
5 such testing with regard to cigarette advertising?

6 MR. KEARNEY: Objection to the form of  
7 the question.

8 A. No.

9 MR. EDELL: Thank you. Would you mark  
10 those.

11 (Sudman Exhibits 4, 5 and 6 marked for  
12 identification.)

13 (Deposition concluded at 4:40 p.m.)  
14  
15  
16  
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IURAT

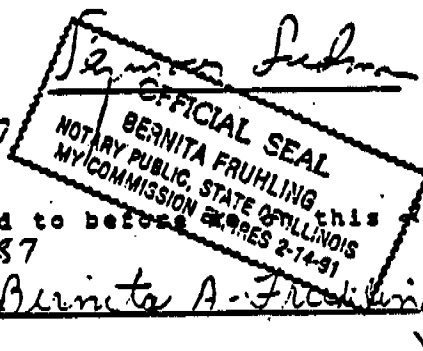
I, SEYMOUR SUDMAN, do hereby certify  
that I have read the foregoing transcript of my  
testimony, taken on October 27, 1987, and have  
signed it subject to the following changes:

<u>PAGE</u>	<u>LINE</u>	<u>CORRECTION</u>
20	20	Title should be caps.
99	8	possible should be positive
129	8	undirect should be indirect
141	7	omit partial

DATE: December 29, 1987

Sworn and subscribed to before this 29 day  
of December, 1987

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*Bernita A. Fruhling*

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C E R T I F I C A T E

I, MARGARET J. TEILHABER, a Certified  
Shorthand Reporter and Notary Public of the States  
of New York and New Jersey, do hereby certify that  
prior to the commencement of the examination the  
witness was sworn by me to testify the truth, the  
whole truth and nothing but the truth.

I do further certify that the foregoing is  
a true and accurate transcript of the testimony  
as taken stenographically by and before me at the  
time, place and on the date hereinbefore set  
forth.

I do further certify that I am neither of  
counsel nor attorney for any party in this action  
and that I am not interested in the event nor  
outcome of this litigation.

Margaret J. Teilhaber  
Notary Public of the States of New Jersey  
and New York

Certificate Number X100856  
New Jersey commission expires August 7, 1991  
New York registration No. 4741157  
New York commission expires February 1990

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JURAT

I, SEYMOUR SUDMAN, do hereby certify  
that I have read the foregoing transcript of my  
testimony, taken on October 27, 1987, and have  
signed it subject to the following changes:

<u>PAGE</u>	<u>LINE</u>	<u>CORRECTION</u>
-------------	-------------	-------------------

DATE:

Sworn and subscribed to before me on this      day  
of

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